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California Legislature

1999–2000 Regular Session

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CHAPTER 72

An act to amend Sections 37252, 37253, 42239.1, and 42239.2 of, to amend and repeal Section 37252.5 of, to add Sections 37252.2, 37252.8, and 37253.5 to, to add and repeal Section 37252.6, to repeal Sections 42239.5 and 42239.6 of, and to repeal and add Section 42239 of, the Education Code, relating to instructional programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 37252 of the Education Code is amended to read:

37252. (a) The governing board of each district maintaining any or all of grades 7 to 12, inclusive, shall offer, and a charter school may offer, supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the exit examination required for high school graduation pursuant to Chapter 8 (commencing with Section 60850) of Part 33.

(b) Sufficient progress, as described in subdivision (a), shall be determined on the basis of either of the following:

(1) The results of the assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and the minimum levels of proficiency recommended by the State Board of Education pursuant to Section 60648.

(2) The pupils' grades and other indicators of academic achievement designated by the district.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Supplemental instruction may also be offered to a pupil who was enrolled in grade 12 during the prior school year.

(d) For the purposes of this section, pupils who do not possess sufficient English language skills to be assessed, as set forth in Sections 60850 and 60853, shall be considered pupils who do not demonstrate sufficient progress towards passing the exit examination required for high school graduation and shall receive supplemental instruction designed to assist the pupils succeed on the high school exit examination.

(e) Instructional programs may be offered pursuant to this section during the summer, before school, after school, on Saturday, or during intersession, or in any combination of summer, before school, after school, Saturday, or intersession instruction, but shall be in addition to

the regular schoolday. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday over a pupil who is not unable to attend a Saturday school program for religious reasons.

(f) A school district or charter school offering supplemental instructional programs pursuant to this section shall receive funding as described in Section 42239 and in the annual Budget Act.

(g) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 2. Section 37252.2 is added to the Education Code to read:

37252.2. (a) The governing board of each school district maintaining any or all of grades 2 to 9, inclusive, shall offer and a charter school may offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained pursuant to Section 48070.5. A school district or charter school may require a pupil who has been retained to participate in supplemental instructional programs. Notwithstanding the requirements of this section, the school district or charter school shall provide a mechanism for a parent or guardian to decline to enroll his or her child in the program. Attendance in supplemental instructional programs shall not be compulsory within the meaning of Section 48200.

(b) Supplemental educational services pursuant to subdivisions (a) may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year. For ninth grade pupils identified in subdivision (a), summer school instruction may also be

offered to pupils who were enrolled in grade 9 during the prior school year.

(d) Each school district or charter school shall use results from tests administered under the Standardized Testing and Reporting Program, established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 or other evaluative criteria to identify eligible pupils pursuant to subdivision (b).

(e) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills.

(f) Each school district or charter school shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(g) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year and as early in their school careers as possible, and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.

(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

(i) This section shall become operative on January 1, 2003.

SEC. 3. Section 37252.5 of the Education Code is amended to read:

37252.5. (a) The governing board of each district maintaining any or all of grades 2 to 9, inclusive, shall offer, and a charter school may offer, programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained pursuant to Section 48070.5. A school district or charter school may require a pupil who has been retained to participate in supplemental instructional programs. Notwithstanding the requirements of this section, the school district or charter school shall provide a mechanism for a parent or guardian to decline to enroll his or her child in the program. Attendance in supplemental instructional programs shall not be compulsory within the meaning of Section 48200.

(b) The governing board of each district maintaining any or all of grades 2 to 6, inclusive, and each charter school, may offer direct, systematic, and intensive supplemental instruction to pupils enrolled in any of grades 2 to 6, inclusive, who have been identified as being at risk of retention pursuant to Section 48070.5.

(c) Supplemental educational services pursuant to subdivisions (a) and (b) may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, on Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday over a pupil who is not unable to attend a Saturday school program for religious reasons.

(d) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year. For ninth grade pupils identified in subdivision (a), summer school instruction may also be offered to pupils who were enrolled in grade 9 during the prior school year.

(e) Each school district or charter school shall use results from tests administered under the Standardized Testing and Reporting Program, established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 or other evaluative criteria to identify eligible pupils pursuant to subdivision (b).

(f) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills.

(g) Each school district or charter school shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(h) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year and as early in their school careers as possible, and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.

(i) 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.

(j) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 4. Section 37252.6 is added to the Education Code, to read:

37252.6. (a) The governing board of each school district maintaining any or all of grades 2 to 6, inclusive, and any charter school, may offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 6, inclusive, who have been identified as having a deficiency in mathematics, reading, or written expression based on the results of any test administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(b) Supplemental educational services offered pursuant to this section may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, on Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year.

(d) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction in reading comprehension, writing, and study skills.

(e) Each school district or charter school shall seek the active involvement of parents, legal guardians, and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(f) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year and as early in their school careers as possible, and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.

(g) (1) The maximum amount of funding for the purposes of programs offered pursuant to this section to serve pupils in grades 2 to 6, inclusive, shall not exceed 5 percent of the statewide total enrollment in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year as determined pursuant to subdivision (c) of Section 42239.

(2) A school district or charter school that offers instruction pursuant to this section shall be entitled to receive reimbursement in an amount up to 5 percent of the district's or charter school's total enrollment in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year as determined pursuant to subdivision (c) of Section 42239.

(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

(i) 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. 5. Section 37252.8 is added to the Education Code, to read:

37252.8. (a) The governing board of each district maintaining any or all of grades 2 to 6, inclusive, and any charter school, may offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 6, inclusive, who meet either of the following criteria:

(1) Pupils who have been identified as having a deficiency in mathematics, reading, or written expression based on the results of the tests administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(2) Pupils who have been identified as being at risk of retention pursuant to Section 48070.5.

(b) Supplemental educational services offered pursuant to this section may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year.

(d) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills.

(e) Each school district or charter school shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(f) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year, and as early in their school careers as possible and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.

(g) (1) A school district or charter school that offers instruction pursuant to this section shall be entitled to receive reimbursement in an amount up to 5 percent of the district's or charter school's total enrollment in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (c) of Section 42239.

(2) The balance of the appropriation made for the purposes of funding programs offered pursuant to this section to serve pupils in grades 2 to 6, inclusive, shall be allocated for reimbursement of pupil attendance in instruction pursuant to subdivision (a) that is in excess of five percent, but not in excess of seven percent, of the district's enrollment for the prior year in grades 2 to 6, inclusive, multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (c) of Section 42239.

(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

(i) This section shall become effective January 1, 2003.

SEC. 6. Section 37253 of the Education Code is amended to read:

37253. (a) The governing board of any school district and a charter school may offer supplemental instructional programs in mathematics, science, or other core academic areas designated by the Superintendent of Public Instruction.

(b) The Superintendent of Public Instruction shall adopt rules and regulations necessary to implement this section, including, but not

limited to, the designation of academic areas other than mathematics and science as core academic areas.

(c) The maximum entitlement of a school district or charter school for reimbursement for pupil hours of attendance in supplemental instructional programs offered pursuant to this section shall be an amount equal to 7 percent of the total enrollment of the school district or charter school for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, as determined pursuant to subdivision (c) of Section 42239.

(d) To the extent appropriated funding allows, a school district or charter school may enroll more than 7 percent of its pupils, or may enroll pupils for more than 120 hours per year, in supplemental instructional programs offered pursuant to this section, if the total state apportionment to the district or charter school for these programs does not exceed an amount computed equal to 10 percent of the total enrollment of the school district or charter school for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, as determined pursuant to subdivision (c) of Section 42239.

(e) Instructional programs may be offered pursuant to this section during the summer, before school, after school, on Saturday, or during intersession, or in any combination of summer, before school, after school, Saturday, or intersession instruction, but shall be in addition to the regular schoolday. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.

(f) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 7. Section 37253.5 is added to the Education Code, to read:

37253.5. (a) The governing board of a school district or a charter school offering supplemental instruction pursuant to Section 37253 may apply to the Superintendent of Public Instruction for grants for the following purposes:

(1) To establish staff development programs for teachers to upgrade the academic and instructional skills of those teachers providing instruction in the summer school program.

(2) To establish a training program in which persons enrolled in a postsecondary educational institution or teacher training program and who intend to teach mathematics, science, or other core academic areas

designated by the Superintendent of Public Instruction provide supervised instructional services.

(b) To the extent feasible, programs established pursuant to subdivision (a) shall be operated in cooperation with postsecondary educational institutions, teacher education and computer centers, and other appropriate institutions.

SEC. 8. Section 42239 of the Education Code is repealed.

SEC. 9. Section 42239 is added to the Education Code, to read:

42239. For the 2000–01 fiscal year, and each fiscal year thereafter, the Superintendent of Public Instruction shall compute funding for supplemental instruction for each school district or charter school in the following manner:

(a) Multiply the number of pupil hours of supplemental instruction claimed pursuant to Sections 37252, 37252.2, and 37252.5 by the pupil hour allowance specified in subdivision (c), or by a pupil hour allowance specified in the annual Budget Act in lieu of the amount computed in subdivision (c).

(b) Multiply the number of pupil hours of supplemental instruction claimed pursuant to Sections 37252.6, 37252.8, 37253, and 42239.6 by the pupil hour allowance specified in subdivision (c), or by a per-pupil hour allowance specified in the annual Budget Act in lieu of the amount computed in subdivision (c). The total number of pupil hours of supplemental instruction that may be claimed pursuant to Section 37253 may not exceed the limits on pupil hours that may be claimed as established by subdivisions (c) and (d) of Section 37253. The total number of pupil hours of supplemental instruction that may be claimed pursuant to Section 37252.6 may not exceed the limits on pupil hours that may be claimed as established in subdivision (g) of that section.

(c) Commencing with the 2000–01 fiscal year, hours of supplemental instruction shall be reimbursed at a rate of three dollars and 25 cents ($3.25) per pupil hour, adjusted in future years as specified in this section, provided that a different reimbursement rate may be specified for each fiscal year in the annual Budget Act that appropriates funding for that fiscal year. This amount shall be increased annually by the percentage increase pursuant to subdivision (b) of Section 42238.1 granted to school districts or charter schools for base revenue limit cost-of-living increases.

(d) (1) If appropriated funding is insufficient to pay all claims made in any fiscal year pursuant to Section 37252, 37252.2, or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts pursuant to Section 37252, 37252.2, 37252.5, or subdivision (d) of Section 37253.

(2) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252, 37252.2, or 37252.5, the

superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the prior fiscal year.

(3) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252, 37252.2, or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the current fiscal year.

(4) The superintendent shall notify the Director of Finance that there is a deficiency of funding appropriated for the purposes of Sections 37252, 37252.2, and 37252.5 only after the superintendent has exhausted all available balances of appropriations made for the current or prior fiscal years for the reimbursement of school districts for supplemental instruction.

(e) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 10. Section 42239.1 of the Education Code is amended to read:

42239.1. (a) For the 1999–2000 fiscal year and each fiscal year thereafter, each school district shall be eligible for reimbursement for hours of pupil attendance claimed for intensive reading programs offered pursuant to Article 1 (commencing with Section 53025) of Chapter 16 of Part 28 of the Education Code in an amount up to 10 percent of the district's total enrollment in kindergarten and grades 1 to 4, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (c) of Section 42239. This amount shall be provided in addition to amounts claimed pursuant to Sections 37252, 37252.2, 37252.5, 35252.6, 37252.8, and 37253.

(b) When expending funds received pursuant to this section a school district shall give first priority for the purpose specified in paragraph (1) of subdivision (c) of Section 53027.

SEC. 11. Section 42239.2 of the Education Code is amended to read:

42239.2. (a) The Superintendent of Public Instruction shall allocate a minimum of six thousand seven hundred sixty-six dollars ($6,766) for supplemental summer school programs established pursuant to Article 1 (commencing with Section 53025) of Chapter 16 of Part 28, from funds appropriated therefor in each school district for which the prior fiscal year enrollment was less than 500 units of average daily attendance and that offers at least 1,500 hours of supplemental summer school instruction. A school district for which the prior fiscal year enrollment was less than 500 units of average daily attendance that

offers less than 1,500 hours of supplemental summer school offerings shall receive a proportionately reduced allocation.

(b) Minimum allocations for supplemental summer school programs required pursuant to subdivision (a) shall be adjusted for inflation in the 2000–01 fiscal year, and each fiscal year thereafter, in accordance with Section 42238.1.

(c) For purposes of this section a charter school is a schoolsite and is not a school district.

(d) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 12. Section 42239.5 of the Education Code is repealed.

SEC. 13. Section 42239.6 of the Education Code is repealed.

SEC. 14. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the annual Budget Act, it is necessary that this measure take effect immediately as an urgency statute.

CHAPTER 73

An act to amend Section 48980 of, and to add Section 52247 to, the Education Code, relating to instructional programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550 and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification shall also advise the parents and guardians of all pupils attending a school within the district of the schedule of minimum days and pupil-free staff development days, and if any minimum or pupil-free staff development days are scheduled thereafter, the governing board shall notify parents and guardians of the affected pupils as early as possible, but not later than one month before the scheduled minimum or pupil-free day.

(d) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(e) Commencing with the 2000–01 school year, and each school year thereafter, the notification shall advise the parent or guardian of the pupil that, commencing with the 2003–04 school year, and each school year thereafter, each pupil completing 12th grade will be required to successfully pass the high school exit examination administered pursuant to Chapter 8 (commencing with Section 60850) of Part 33. The notification shall include, at a minimum, the date of the examination, the requirements for passing the examination, and shall inform the parents and guardians regarding the consequences of not passing the examination and shall inform parents and guardians that passing the examination is a condition of graduation.

(f) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

(g) Until July 1, 1998, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204.

(h) The notification shall also include a copy of the district's written policy on sexual harassment established pursuant to Section 212.6, as it relates to pupils.

(i) Commencing July 1, 1998, the notification shall include a copy of the written policy of the school district adopted pursuant to Section 51870.5 regarding access by pupils to Internet and online sites.

(j) The notification shall advise the parent or guardian of all current statutory attendance options and local attendance options available in the school district. That notification shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. That notification shall also include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification shall also include an explanation of the current statutory attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, subdivision (f) of Section 48204, and Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27. The State Department of Education shall produce this portion of the notification and shall distribute it to all school districts.

(k) It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

(*l*) The notification shall advise the parent or guardian that no pupil may have his or her grade reduced or lose academic credit for any absence or absences excused pursuant to Section 48205 when missed assignments and tests that can reasonably be provided are satisfactorily completed within a reasonable period of time, and shall include the full text of Section 48205.

(m) The notification shall advise the parent or guardian of the availability of state funds to cover the costs of advanced placement examination fees pursuant to Section 52244.

SEC. 2. Section 52247 is added to the Education Code, to read:

52247. (a) The Advanced Placement Challenge Grant Program is hereby established to assist California public high schools in providing access to rigorous, academically challenging, college-level courses to interested and prepared pupils in the state.

(b) Commencing in the 2000–01 fiscal year, the Superintendent of Public Instruction shall administer the Advanced Placement Challenge Grant Program. A school district may apply on behalf of eligible schools in its jurisdiction to the Superintendent of Public Instruction for the award of a grant pursuant to this section.

(c) Only a high school meeting the following criteria during the 1999–2000 academic year is eligible to receive funding pursuant to this section:

(1) Schools offering three or fewer advanced placement courses, or in the case of multitrack schools, three or fewer advanced placement courses per track. Schools meeting this criteria shall have first priority for funding.

(2) Schools not offering advanced placement courses in either mathematics or science. Schools meeting this criteria shall have second priority for funding.

(3) Schools with low college participation rates. Schools meeting this criteria shall have third priority for funding.

(4) Schools with a majority of pupils who qualify for free or reduced price meals. Schools meeting this criteria shall have fourth priority for funding.

(d) All schools meeting a higher priority criteria shall receive funding before any school meeting a lower priority criteria may receive funding, subject to a maximum of 550 high schools participating in this program.

(e) In the 2000–01 fiscal year, the Superintendent of Public Instruction shall award nonrenewable four-year grants in the annual amounts of thirty thousand dollars ($30,000), twenty-two thousand five hundred dollars ($22,500), fifteen thousand dollars ($15,000), and seven thousand five hundred dollars ($7,500) respectively, on a competitive basis to no more than 550 public high schools. The Superintendent of Public Instruction shall notify school districts and county offices of education of the availability of these grant funds, which are intended to increase a recipient school's capacity to offer advanced placement courses.

(f) In addition to any funding received pursuant to this section, a school district that qualifies for first priority funding pursuant to paragraph (1) of subdivision (c) may also qualify for first priority grants under the Education Technology Grant Program (Chapter 8.6 (commencing with Section 52270)) in order to provide access to online advanced placement courses for pupils, upon enactment of Assembly Bill 2882 of the 1999–2000 Regular Session.

(g) The grants shall be used exclusively for the following activities:

(1) Establishing, training, and supporting vertical teams of teachers, as defined in this section.

(2) Providing an incentive for schools to offer additional advanced placement courses by purchasing instructional materials and equipment for those courses.

(3) Tutoring and instructional support services for pupils, both in preparation for and during, advanced placement coursework.

(h) As a condition of receiving funds pursuant to this section, a high school shall do all of the following:

(1) Design and implement a plan that will result in its pupils having access, no later than the beginning of the 2001–02 academic year, to a minimum of four advanced placement courses in core curriculum areas. A high school participating in this program shall commit to increase to 50 percent or more the number of pupils enrolled in each advanced placement course taking the advanced placement examination or to a 10 percent increase in the number of advanced placement test takers in each course from the previous year, whichever is greater.

(2) Make every effort to ensure that its pupils and their parents or guardians are informed about both of the following:

(A) The school's efforts to provide pupil access to advanced placement courses.

(B) The use of technology by the school to provide pupil access to advanced placement courses.

(3) Utilize tutoring and support services such as those provided under the Advancement Via Individual Determination program and encourage pupils to utilize distance learning options for advanced placement course offerings. A participating school's plan should include a variety of strategies, including, but not limited to, those specified above to increase access to advanced placement courses.

(4) To the extent possible, include feeder middle schools in developing a pre-advanced placement program.

(5) Pre-advanced placement programs shall include, but not be limited to, professional development of teachers and school counselors, vertical teams, curriculum development focused on skills and knowledge needed for advanced placement readiness, academic support for advanced placement pupils, and notification to its pupils and their parents about the availability and importance of advanced placement courses.

(i) The Superintendent of Public Instruction shall contract for an independent evaluation of the effectiveness of the Advanced Placement Challenge Grant Program and report its findings to the Governor and the Legislature on or before August 1, 2002.

(j) For purposes of this section, ''vertical team'' means a group of educators from different grade levels in a given discipline who work cooperatively to develop and implement a vertically aligned program aimed at helping pupils acquire the academic skills necessary to prepare them to successfully undertake advanced placement coursework.

(k) Nothing in this section shall be construed to require any action or expenditure on the part of a school district in excess of the amount of funding provided for the purposes of this program or that would require reimbursement by the Commission on State Mandates pursuant to

Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

(*l*) Funds provided for the purposes of this section shall supplement existing programs or services provided at a qualifying high school that are consistent with this section and may not be used to supplant funding for those programs and services.

(m) For purposes of this section, high schools receiving grants pursuant to this section may utilize the services of county offices of education, including, but not limited to, services for providing access to advanced placement courses to small, rural schools.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 2000 with respect to high school education, it is necessary that this act take effect immediately.

CHAPTER 74

An act to amend Sections 22008, 22102, 22105, 22107, 22108, 22132, 22140, 22161.5, 22304, 22309, 22453, 22651, 22652, 22655, 22656, 22658, 22659, 22660, 22661, 22662, 22664, 22665, 22706, 23100, 24202.5, 24206, 24402, 24411, 24412, 24415, 24417, and 24600 of, to amend and renumber Sections 25000, 25100, 25110, 25115, 25120, and 25125 of, to add Sections 22101.5, 22104.7, 22104.9, 22105.5, 22122.7, 22127.2, 22133.5, 22139.5, 22146.7, 22156.05, 22166.5, 22176, 22302, 22311.5, 22311.7, 24300.5, and 24305.3 to, to add Chapter 38 (commencing with Section 25000) to Part 13 of Division 1 of Title 1 of, to add and repeal Section 22901.5, and to repeal and add Sections 22162, 22311, 22460, 22906, 23300, and 23881 of, the Education Code, relating to state teachers' retirement.

[Approved by Governor July 5, 2000. Filed with
Secretary of State July 5, 2000.]

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

SECTION 1. Section 22008 of the Education Code is amended to read:

22008. For the purposes of payments into or out of the retirement fund for adjustments of errors or omissions with respect to the Defined Benefit Program or the Defined Benefit Supplement Program, the period of limitation of actions shall be applied, except as provided in Sections 23302 and 24613, as follows:

(a) No action may be commenced by or against the board, the system, or the plan more than three years after all obligations to or on behalf of the member, former member, beneficiary, or annuity beneficiary have been discharged.

(b) If the system makes an error that results in incorrect payment to a member, former member, beneficiary, or annuity beneficiary, the system's right to commence recovery shall expire three years from the date the incorrect payment was made.

(c) If an incorrect payment is made due to lack of information or inaccurate information regarding the eligibility of a member, former member, beneficiary, or annuity beneficiary to receive benefits under the Defined Benefit Program or Defined Benefit Supplement Program, the period of limitation shall commence with the discovery of the incorrect payment.

(d) Notwithstanding any other provision of this section, if an incorrect payment has been made on the basis of fraud or intentional misrepresentation by a member, beneficiary, annuity beneficiary, or other party in relation to or on behalf of a member, beneficiary, or annuity beneficiary, the three-year period of limitation shall not be deemed to commence or to have commenced until the system discovers the incorrect payment.

(e) The collection of overpayments under subdivisions (b), (c), and (d) shall be made pursuant to Section 24617.

SEC. 2. Section 22102 of the Education Code is amended to read:

22102. ''Accumulated retirement contributions'' means the sum of the member contributions, the member contributions picked up by an employer pursuant to Sections 22903 and 22904, and credited interest on those contributions. Accumulated retirement contributions shall not include accumulated annuity deposit contributions, accumulated tax-sheltered annuity contributions, accumulated Defined Benefit Supplement contributions, or additional earnings credit.

SEC. 3. Section 22101.5 is added to the Education Code, to read:

22101.5. ''Accumulated Defined Benefit Supplement account balance'' means an amount equal to the sum of member contributions, the member contributions picked up by an employer, employer contributions, and interest credited on those contributions pursuant to Section 25005, that are credited by the system to the member's Defined Benefit Supplement account.

SEC. 4. Section 22104.7 is added to the Education Code, to read:

22104.7. ''Additional earnings credit'' means an amount derived from investment income for the plan year as determined by the board by plan amendment and added to members' Defined Benefit Supplement accounts in addition to the amount credited at the minimum interest rate for that plan year.

SEC. 5. Section 22104.9 is added to the Education Code, to read:

22104.9. ''Annuitant Reserve'' means a segregated account within the retirement fund established and maintained for expenditure on annuities payable under the Defined Benefit Supplement Program.

SEC. 6. Section 22105 of the Education Code is amended to read:

22105. (a) ''Annuity,'' with respect to the Defined Benefit Program, means payments for life derived from the ''accumulated annuity deposit contributions'' of a member.

(b) ''Annuity,'' with respect to the Defined Benefit Supplement Program, means an alternative payment arrangement wherein a benefit based on the balance of credits in a member's Defined Benefit Supplement account is paid monthly rather than in a lump-sum.

SEC. 7. Section 22105.5 is added to the Education Code, to read:

22105.5. ''Annuity beneficiary'' means the person or persons designated by a member pursuant to Section 25011 or 25018 to receive an annuity under the Defined Benefit Supplement Program upon the member's death.

SEC. 8. Section 22107 of the Education Code is amended to read:

22107. (a) ''Beneficiary,'' with respect to the Defined Benefit Program, means any person or entity receiving or entitled to receive an allowance or lump-sum payment under the Defined Benefit Program because of the disability or death of a member.

(b) ''Beneficiary,'' with respect to the Defined Benefit Supplement Program, means any person or entity receiving or entitled to receive a final benefit under the Defined Benefit Supplement Program upon the death of a member.

SEC. 9. Section 22108 of the Education Code is amended to read:

22108. (a) ''Benefit'' or ''benefits,'' with respect to the Defined Benefit Program, means any monthly payment due a retired member, disabled member, or beneficiary, and includes lump-sum payments due on account of death.

(b) ''Benefit'' and ''benefits,'' with respect to the Defined Benefit Supplement Program, means an amount equal to the balance of credits in a member's Defined Benefit Supplement account.

SEC. 10. Section 22122.7 is added to the Education Code, to read:

22122.7. ''Defined Benefit Supplement contributions'' means member contributions and employer contributions that are credited by the system to the member's Defined Benefit Supplement account pursuant to Section 25004.

SEC. 11. Section 22127.2 is added to the Education Code, to read:

22127.2. ''Disability benefit'' means the amount payable under the Defined Benefit Supplement Program based on the balance of credits in a member's Defined Benefit Supplement account to either a disabled member pursuant to Section 24005 or to a member who retired for disability pursuant to Section 24105.

SEC. 12. Section 22132 of the Education Code is amended to read:

22132. ''Employed'' or ''employment'' means employment to perform creditable service subject to coverage under the Defined Benefit Program or the Defined Benefit Supplement Program, except as otherwise specifically provided under this part.

SEC. 13. Section 22133.5 is added to the Education Code, to read:

22133.5. ''Final benefit'' means the amount payable to a beneficiary under the Defined Benefit Supplement Program upon the death of the member.

SEC. 14. Section 22139.5 is added to the Education Code, to read:

22139.5. ''Gain and Loss Reserve'' means a segregated account within the retirement fund that is established and maintained to do either of the following:

(a) Credit interest to members' Defined Benefit Supplement accounts at the minimum interest rate for plan years in which the board determines that the obligation cannot be met from the plan's investment earnings with respect to the Defined Benefit Supplement Program.

(b) Provide additions to the Annuitant Reserve to meet the plan's obligation for annuities payable under the Defined Benefit Supplement Program.

SEC. 15. Section 22140 of the Education Code is amended to read:

22140. (a) ''Improvement factor,'' with respect to the Defined Benefit Program, means an increase of 2 percent in monthly allowances. The improvement factor shall be added to a monthly allowance each year on September 1, commencing on September 1 following the first anniversary of the effective date of retirement, or the date on which the monthly allowance commenced to accrue to any beneficiary, or other periods specifically stated in this part.

(b) ''Improvement factor,'' with respect to the Defined Benefit Supplement Program, means an increase of 2 percent in monthly

annuities. The improvement factor shall be added to a monthly annuity each year on September 1, commencing on the September 1 following the first anniversary of the date the annuity first became payable.

(c) The improvement factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the improvement factor up or down as economic conditions dictate. No adjustments of the improvement factor shall reduce the monthly retirement allowance or annuity below that which would be payable to the recipient under this part had this section not been enacted.

SEC. 16. Section 22146.7 is added to the Education Code, to read:

22146.7. ''Minimum interest rate'' means the annual interest rate determined by the board by plan amendment at which interest shall be credited to Defined Benefit Supplement accounts for a plan year.

SEC. 17. Section 22156.05 is added to the Education Code, to read:

22156.05. ''Plan year'' means the period of time beginning on July 1 of one calendar year and ending on June 30 of the following calendar year. For purposes of the Defined Benefit Supplement Program, the board shall designate by plan amendment the initial plan year.

SEC. 18. Section 22161.5 of the Education Code is amended to read:

22161.5. ''Refund'' means the lump-sum return of a member's accumulated retirement contributions under the Defined Benefit Program and does not include accumulated contributions credited to the Defined Benefit Supplement Program.

SEC. 19. Section 22162 of the Education Code is repealed.

SEC. 20. Section 22162 is added to the Education Code, to read:

22162. ''Regular interest'' means interest that is compounded annually based on the annual equivalent of the prior year's average yield to maturity on the investment-grade fixed income securities attributable to the Defined Benefit Program, but not on assets attributable to the Defined Benefit Supplement Program. The regular interest rate shall be adopted annually by the board as a plan amendment with respect to the Defined Benefit Program.

SEC. 21. Section 22166.5 is added to the Education Code, to read:

22166.5. ''Retirement benefit'' means the amount payable under the Defined Benefit Supplement Program, based on the balance of credits in the member's Defined Benefit Supplement account, to a member who has retired for service under the Defined Benefit Program.

SEC. 22. Section 22176 is added to the Education Code, to read:

22176. ''Termination benefit'' means a benefit equal in amount to the balance of credits in the member's Defined Benefit Supplement account that is payable to the member in a lump-sum when the member

has terminated all employment to perform creditable service subject to coverage by the plan.

SEC. 23. Section 22302 is added to the Education Code, to read:

22302. The board may contract with a qualified third-party administrator for custodial, record keeping, or other administrative services necessary to carry into effect the provisions of Chapter 38 (commencing with Section 25000) of this part or Part 14.

SEC. 24. Section 22304 of the Education Code is amended to read:

22304. (a) The costs of administration of the plan shall be paid from the retirement fund and those costs may not exceed the amount made available by law during any fiscal period.

(b) The administrative costs of the plan shall be divided proportionately in accordance with the assets of the Defined Benefit Program, the Defined Benefit Supplement Program, and the Cash Balance Benefit Program.

SEC. 25. Section 22309 of the Education Code is amended to read:

22309. (a) The board shall issue to each active and inactive member, no less frequently than annually after the close of the school year, a statement of the member's individual Defined Benefit Program and Defined Benefit Supplement accounts, provided the employer or member has informed the system of the member's current mailing address.

(b) The board shall periodically make a good faith effort to locate inactive members to provide these members with information concerning any benefit for which they may be eligible.

SEC. 26. Section 22311 of the Education Code is repealed.

SEC. 27. Section 22311 is added to the Education Code, to read:

22311. The board shall maintain all data necessary to perform an actuarial investigation of the demographic and economic experience of the plan and for the actuarial valuation of the assets and liabilities of the plan.

SEC. 28. Section 22311.5 is added to the Education Code, to read:

22311.5. The board shall acquire the services of an actuary to do all of the following:

(a) Make recommendations to the board for the adoption of actuarial assumptions that, in the aggregate, are reasonably related to the past experience of the plan and reflect the actuary's informed estimate of the future experience.

(b) Make an actuarial investigation of the demographic and economic experience, including the mortality, service, and other experience, of the plan with respect to members and beneficiaries of the Defined Benefit Programs; members, beneficiaries, and annuity beneficiaries of the Defined Benefit Supplement Program; and participants and beneficiaries of the Cash Balance Benefit Program.

(c) Make an annual actuarial review of the goals regarding the sufficiency of the Gain and Loss Reserves with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program and recommend to the board the goal for maintaining sufficient Gain and Loss Reserves for the Defined Benefit Supplement Program and the Cash Balance Benefit Program.

(d) Recommend to the board the amount, if any, to be transferred to the separate Gain and Loss Reserves from the investment earnings of the plan with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program.

(e) At least once every six years with respect to the Defined Benefit Program and annually with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program, using actuarial assumptions adopted by the board, perform an actuarial valuation of the plan that identifies the assets and liabilities of the plan, and report the findings to the board. The report of the actuary on the results of the actuarial valuation shall identify and include the components of normal cost and adequate information to determine the effects of changes in actuarial assumptions. Copies of the report on the actuarial valuation shall be transmitted to the Governor and to the Legislature.

(f) Recommend to the board all rates and factors necessary to administer the plan, including, but not limited to, mortality tables, annuity factors, interest rates, and additional earnings credits.

(g) Recommend to the board a strategy for amortizing any unfunded actuarial obligation.

(h) As requested by the board, perform any other actuarial services that may be required for administration of the plan.

SEC. 29. Section 22311.7 is added to the Education Code, to read:

22311.7. Upon the basis of the actuarial investigation and actuarial valuation pursuant to Section 22311.5, or any part thereof, the board shall adopt by plan amendment actuarial assumptions, rates, factors, and tables as the board determines are necessary for administration of the plan and its programs.

SEC. 30. Section 22453 of the Education Code is amended to read:

22453. (a) Except as provided in Section 22454, the signature of the spouse of a member shall be required on any application for, or cancellation of, an unmodified allowance; any application for, or cancellation of, an annuity or termination benefit under the Defined Benefit Supplement Program; the election, change, or cancellation of an option; or any request for a refund of the member's accumulated retirement contributions or accumulated annuity deposit contributions, or any other requests related to the selection of benefits by a member in which a spousal interest may be present, unless the member declares, in

writing, under penalty of perjury, that one of the following conditions exists:

(1) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(2) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(3) The member and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(4) The member is not married.

(5) The current spouse has no identifiable community property interest in the benefit.

(b) This section is not applicable to an application for a disability allowance.

(c) The sole purpose of this section is to provide for spousal protection in the selection of specified benefits made by a member.

SEC. 31. Section 22460 of the Education Code is repealed.

SEC. 32. Section 22460 is added to the Education Code, to read:

22460. (a) If a member terminates employment with less than five years of credited service, the employer shall notify the member of the following:

(1) That unless the member is eligible, or becomes eligible in the future, for concurrent retirement pursuant to paragraph (2) of subdivision (a) of Section 24201, the member is eligible only for a refund of accumulated retirement contributions and the return of an amount equal to the balance of credits in the member's Defined Benefit Supplement account.

(2) The current rate of interest that shall be earned on accumulated retirement contributions that are not refunded and the current minimum interest rate that shall be applied to the balance of credits in the member's Defined Benefit Supplement account.

(3) Actions that may be taken by the board if accumulated retirement contributions are not refunded and an amount equal to the balance of credits in the member's Defined Benefit Supplement account are not returned.

(b) Employers shall transmit to a member who terminates employment with less than five years of credited service the information specified in subdivision (a) as part of the usual separation documents.

SEC. 33. Section 22651 of the Education Code is amended to read:

22651. For purposes of this chapter and Section 23300, ''nonmember spouse'' means a member's spouse or former spouse who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined

Benefit Supplement account balance, or benefits of the member under this part. A nonmember spouse who is awarded a separate account of service credit and accumulated retirement contributions, who is awarded a separate account based on the balance of credits in the member's Defined Benefit Supplement account, who receives a retirement allowance or retirement annuity under this part, or who is awarded an interest in a member's retirement allowance or retirement annuity under this part is not a member.

SEC. 34. Section 22652 of the Education Code is amended to read:

22652. (a) Upon the legal separation or dissolution of marriage of a member, other than a retired member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) The court may order in the judgment or court order that the accumulated retirement contributions and service credit or an amount equal to the balance of credits in the member's Defined Benefit Supplement account under this part that are attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember spouse, respectively. Any service credit, accumulated retirement contributions, or amount equal to the balance of credits in the member's Defined Benefit Supplement account under this part that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member under the Defined Benefit Program or the Defined Benefit Supplement Program.

(c) The determination of the court of community property rights pursuant to this section shall be consistent with this chapter and shall address the rights of the nonmember spouse under this part, including, but not limited to, the following:

(1) The right to a retirement allowance and, if applicable, a retirement annuity.

(2) The right to a refund of accumulated retirement contributions and the lump-sum payment of an amount equal to the balance of credits in the member's Defined Benefit Supplement account that were awarded to the nonmember spouse.

(3) The right to redeposit accumulated retirement contributions previously refunded to the member which the member is eligible to redeposit pursuant to Sections 23200 to 23203, inclusive, and shall specify the shares of the redeposit amount awarded to the member and the nonmember spouse.

(4) The right to purchase additional service credit that the member is eligible to purchase pursuant to Sections 22800 to 22810, inclusive, and shall specify the shares of the additional service credit awarded to the member and the nonmember spouse.

SEC. 35. Section 22655 of the Education Code is amended to read:

22655. (a) Upon the legal separation or dissolution of marriage of a retired member, the court may include in the judgment or court order a determination of the community property rights of the parties in the retired member's retirement allowance and, if applicable, retirement annuity under this part consistent with this section. Upon election under subparagraph (B) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonmember spouse a community property share in the retirement allowance or retirement annuity, or both, of a retired member shall be consistent with this section.

(b) If the court does not award the entire retirement allowance or retirement annuity under this part to the retired member and the retired member is receiving a retirement allowance that has not been modified pursuant to Section 24300, or a single life annuity pursuant to Section 25011 or 25018, the court shall require only that the system pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance or retirement annuity, or both, under this part.

(c) If the court does not award the entire retirement allowance or retirement annuity under this part to the retired member and the retired member is receiving an allowance that has been actuarially modified pursuant to Section 24300, or a joint and survivor annuity pursuant to Section 25011 or 25018, the court shall order only one of the following:

(1) The retired member shall maintain the retirement allowance or retirement annuity, or both, under this part without change.

(2) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and select a new joint and survivor option or a new beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance under this part of the retired member, the option beneficiary, or both.

(3) The retired member shall cancel the joint and survivor annuity under which the retirement annuity is being paid pursuant to Section 24305.5, and select a new joint and survivor annuity or a new annuity beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement annuity payable to the retired member, the annuity beneficiary, or both.

(4) The retired member shall take the action specified in both paragraphs (2) and (3).

(5) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and select an unmodified retirement allowance and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance under this part.

(6) The retired member shall cancel the joint and survivor annuity under which the retirement annuity is being paid pursuant to Section 24305.5, and select a single life annuity, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement annuity payable to the retired member.

(7) The retired member shall take the action specified in both paragraphs (5) and (6).

(d) If the option beneficiary or annuity beneficiary or both under this part, other than the nonmember spouse, predeceases the retired member, the court shall order the retired member to select a new option beneficiary pursuant to Section 24306, or a new annuity beneficiary pursuant to Section 24305.3 and shall order the system to pay the nonmember spouse, by separate warrant, his or her share of the community property interest in the retirement allowance or retirement annuity or both under this part of the retired member or the new option beneficiary or annuity beneficiary or each of them.

(e) The right of the nonmember spouse to receive his or her community property share of the retired member's retirement allowance or retirement annuity or both under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary under the Defined Benefit Program and a payee under the Defined Benefit Supplement Program to receive his or her community property share of the retired member's accumulated retirement contributions and accumulated Defined Benefit Supplement account balance under this part in the event that there are remaining accumulated retirement contributions and a balance in the member's Defined Benefit Supplement account to be paid upon the death of the nonmember spouse.

SEC. 36. Section 22656 of the Education Code is amended to read:

22656. No judgment or court order issued pursuant to this chapter is binding on the system with respect to the Defined Benefit Program or the Defined Benefit Supplement Program until the system has been joined as a party to the action and has been served with a certified copy of the judgment or court order.

SEC. 37. Section 22658 of the Education Code is amended to read:

22658. (a) A separate account awarded to a nonmember spouse pursuant to Section 22652 shall be administered independently of the member's account.

(b) An accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation attributable to a separate account of a nonmember spouse under this part shall not be combined in any way or for any purpose with the accumulated Defined Benefit Supplement account balance,

accumulated retirement contributions, service credit, and final compensation of any other separate account of the nonmember spouse.

(c) An accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation attributable to the separate account of a nonmember spouse shall not be combined in any way or for any purpose with the accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation of an account that exists under this part because the nonmember spouse is employed or has been employed to perform creditable service subject to coverage under the Defined Benefit Program or the Defined Benefit Supplement Program.

SEC. 38. Section 22659 of the Education Code is amended to read:

22659. Upon being awarded a separate account or an interest in the retirement allowance or retirement annuity of a retired member under this part, a nonmember spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

SEC. 39. Section 22660 of the Education Code is amended to read:

22660. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to designate, pursuant to Sections 23300 to 23304, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions under the Defined Benefit Program and to designate a payee to receive the accumulated Defined Benefit Supplement account balance under the Defined Benefit Supplement Program remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance or accrued Defined Benefit Supplement annuity under this part attributable to the separate account of the nonmember spouse which is unpaid on the date of the death of the nonmember spouse.

(b) This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24300 or to elect a joint and survivor annuity under the Defined Benefit Supplement Program.

SEC. 40. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account, and a lump-sum payment of the balance of credits in the Defined Benefit Supplement account, of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain a refund or lump-sum payment.

(c) The refund and lump-sum payment under this part are effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file in the system. If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions or the accumulated Defined Benefit Supplement account balance that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the nonmember spouse's accumulated retirement contributions or accumulated Defined Benefit Supplement account balance.

(d) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit, accumulated retirement contributions, and the accumulated Defined Benefit Supplement account balance under this part when the refund and lump-sum payment become effective.

(e) The nonmember spouse may not cancel a refund or lump-sum payment under this part after it is effective.

(f) The nonmember spouse shall have no right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective, to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective, or to redeposit the accumulated Defined Benefit Supplement account balance after the lump-sum payment becomes effective.

(g) If the total service credit in the separate account of the nonmember spouse under this part, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

SEC. 41. Section 22662 of the Education Code is amended to read:

22662. The nonmember spouse who is awarded a separate account under this part may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may redeposit under this part only those accumulated retirement contributions that were previously refunded to the member and in which the court has determined the nonmember spouse has a community property interest.

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order addressing the redeposit rights of the nonmember spouse is entered. The nonmember spouses' election to redeposit shall be made on

a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit under this part, he or she shall repay the portion of the member's refunded accumulated retirement contributions that were awarded to the nonmember spouse and shall pay regular interest from the date of the refund to the date of payment.

(d) An election to redeposit shall be considered an election to repay all accumulated retirement contributions previously refunded under this part in which the nonmember spouse has a community property interest. All payments shall be received by the system before the effective date of the nonmember spouse's retirement under this part. If any payment due because of the election is not received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(e) The right of the nonmember spouse to redeposit shall be subject to Section 23203.

(f) The member shall not have a right to redeposit the share of the nonmember spouse in the previously refunded accumulated retirement contributions under this part whether or not the nonmember spouse elects to redeposit. However, any accumulated retirement contributions previously refunded under this part and not explicitly awarded to the nonmember spouse under this part by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 42. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance and, if applicable, a retirement annuity under this part.

(a) The nonmember spouse shall be eligible to retire for service under this part if the following conditions are satisfied:

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit that the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least two and one-half years of credited service in his or her separate account.

(3) The nonmember spouse has attained the age of 55 years or more.

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon any date designated by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for service retirement on a form provided by the system, that is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month in which the application is received at the system's office in Sacramento and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60 1/4	2.033
60 1/2	2.067
60 3/4	2.10
61	2.133
61 1/4	2.167
61 1/2	2.20
61 3/4	2.233
62	2.267
62 1/4	2.30
62 1/2	2.333
62 3/4	2.367
63 and over	2.40

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month in which the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22135, or 22136, whichever is applicable, and shall be based on the compensation earnable of the member up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) If the member is or was receiving a disability allowance under this part with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates.

If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the

lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(e) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24411, 24412, and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

SEC. 43. Section 22665 of the Education Code is amended to read:

22665. The system shall include the service credit awarded to a nonmember spouse in the judgment or court order to determine the eligibility of a member for a retirement or disability allowance under this part. That portion of awarded service credit based on previously refunded accumulated retirement contributions or on permissive service credit may not be used by the member for eligibility requirements until the member has redeposited or purchased his or her portion of the service credit. The member's service retirement allowance shall be calculated based on the service credit in the member's account on the effective date of service retirement.

SEC. 44. Section 22706 of the Education Code is amended to read:

22706. A member shall not receive credit for service performed while receiving a retirement or disability allowance under the Defined Benefit Program or while receiving a retirement or disability annuity under the Defined Benefit Supplement Program.

SEC. 45. Section 22901.5 is added to the Education Code, to read:

22901.5. (a) Notwithstanding Section 22905, 25 percent of the member's contribution pursuant to Section 22901 (2 percent of creditable compensation) shall be credited to the member's Defined Benefit Supplement account pursuant to Section 25004.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 46. Section 22906 of the Education Code is repealed.

SEC. 47. Section 22906 is added to the Education Code, to read:

22906. A member's accumulated retirement contributions that were made with respect to service that was erroneously credited under the Defined Benefit Program shall be returned to the member.

SEC. 48. Section 23100 of the Education Code is amended to read:

23100. (a) Upon the termination of a member's employment by any cause other than death, disability, or retirement there shall be paid to the member, pursuant to this part, each of the following:

(1) The member's accumulated retirement contributions made after June 30, 1935.

(2) The member's accumulated annuity deposit contributions.

(3) An amount equal to the balance of credits in the member's Defined Benefit Supplement account.

(b) Accumulated retirement contributions and accumulated annuity deposit contributions shall include credited interest through the date of payment.

SEC. 49. Section 23300 of the Education Code is repealed.

SEC. 50. Section 23300 is added to the Education Code, to read:

23300. (a) A member of the Defined Benefit Program may designate a beneficiary to receive benefits payable under this part upon the member's death. A beneficiary designation may not be made in derogation of a nonmember spouse's community property interest with respect to service or contributions credited under this part unless the nonmember spouse has previously obtained an alternative order pursuant to Section 2610 of the Family Code.

(b) A member shall make separate designations for benefits payable under the Defined Benefit Program and the Defined Benefit Supplement Program. Each designation shall be in writing on a form prescribed by the system, executed by the member, and witnessed by two witnesses who are not designated as beneficiary for benefits payable under either the Defined Benefit Program or the Defined Benefit Supplement Program. A member may designate the same beneficiary for benefits payable under the Defined Benefit Program and the Defined Benefit Supplement Program, or may designate a different beneficiary for each.

(c) A beneficiary designation shall not be valid unless it is received in the office of the system in Sacramento prior to the member's death.

(d) A member may change or revoke a beneficiary designation at any time by making a new designation pursuant to this section.

(e) This section shall not be applicable to the designation of an option beneficiary or an annuity beneficiary under this part.

SEC. 51. Section 23881 of the Education Code is repealed.

SEC. 52. Section 23881 is added to the Education Code, to read:

23881. (a) If upon receipt of proof of death of a retired member who was receiving an unmodified allowance and who retired under this part after June 30, 1972, there is a remaining balance of the member's accumulated retirement contributions, the balance shall be paid to the member's beneficiary.

(b) Upon receipt of proof of death of a retired member's option beneficiary after the beneficiary begins to receive an allowance, the

remaining balance of a member's accumulated retirement contributions, if any, shall be paid to the beneficiary designated by the option beneficiary to receive that payment.

(c) The remaining balance of a retired member's accumulated retirement contributions shall be the difference between the balance of the accumulated retirement contributions on the effective date of the member's retirement and the total retirement allowance paid or payable to the retired member on the date of the member's death. If the retired member predeceased the option beneficiary, the remaining balance of the retired member's accumulated retirement contributions shall be the difference between the balance of the accumulated retirement contributions on the effective date of the member's retirement and the total retirement allowance paid or payable to the retired member and the option beneficiary on the date of the option beneficiary's death.

(d) Payments pursuant to this section shall include interest on the remaining balance of accumulated retirement contributions calculated from the date the last allowance payment was made to the date the remaining balance of accumulated retirement contributions is paid.

SEC. 53. Section 24202.5 of the Education Code is amended to read:

24202.5. (a) A member who retires for service on or after January 1, 1999, shall receive a retirement allowance consisting of all of the following:

(1) An annual allowance payable in monthly installments, upon retirement equal to the percentage of the final compensation set forth opposite the member's age at retirement in the following table multiplied by each year of credited service:

Age at Retirement	Percentage
60	2.00
60 1/4	2.033
60 1/2	2.067
60 3/4	2.10
61	2.133
61 1/4	2.167
61 1/2	2.20
61 3/4	2.233
62	2.267
62 1/4	2.30
62 1/2	2.333
62 3/4	2.367
63 and over	2.40

If the member's retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member's allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the member's accumulated annuity deposit contributions at the time of retirement.

(3) An annuity based on the balance of credits in the member's Defined Benefit Supplement account, pursuant to Section 25012, if elected by the member pursuant to Section 25011.

(b) In computing the amounts described in paragraph (1) of subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or the later date as provided in Section 24204 shall be used.

SEC. 54. Section 24206 of the Education Code is amended to read:

24206. The minimum unmodified allowance for service retirement under the Defined Benefit Program, exclusive of annuities payable from accumulated annuity deposit contributions and exclusive of the balance of credits in the member's Defined Benefit Supplement account, shall not be less than ten dollars ($10) per month multiplied by the member's years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited under the Defined Benefit Program. If the retirement is effective at less than age 60 years this allowance shall be reduced by one-half of 1 percent for each full month or fraction of a month that will elapse until the member would have reached age 60 years.

SEC. 55. Section 24300.5 is added to the Education Code, to read:

24300.5. An option beneficiary who is receiving an allowance pursuant to the option elected by the member may designate a beneficiary to receive any remaining balance of the retired member's accumulated retirement contributions payable pursuant to Section 23881 upon the death of the option beneficiary.

SEC. 56. Section 24305.3 is added to the Education Code, to read:

24305.3. (a) A member who is receiving a joint and survivor annuity under the Defined Benefit Supplement Program may change the annuity or the annuity beneficiary elected pursuant to Section 25011 or 25018 provided all of the following conditions are met:

(1) The annuity beneficiary is the member's spouse or former spouse.

(2) A final decree of dissolution of marriage is granted, or a judgment of nullity is entered, or an order of separate maintenance is made by a court of competent jurisdiction with respect to the member and the spouse or former spouse on or after the beginning of the initial plan year designated by the board pursuant to Section 22156.05.

(3) The change is consistent with the final decree of dissolution, judgment of nullity, or order of separate maintenance.

(b) A member may change the annuity pursuant to subdivision (a) before or after the first annuity payment is issued.

(c) The member shall notify the system in writing of the change in the annuity. The notification shall not be earlier than the effective date of the final decree of dissolution, judgment of nullity, or order of separate maintenance and shall include a certified copy of the final decree of dissolution, judgment of nullity, or order of separate maintenance, and any property settlement agreement.

(d) A change in the annuity or annuity beneficiary or both shall become effective on the date the notification of change is received by the system. The annuity amount payable to the member upon the change elected by the member shall be determined as of the effective date of the change and shall be the actuarial equivalent of the lump-sum that would otherwise be payable to the member as of the date of the change. If the member elects a joint and survivor annuity, the amount payable under the annuity shall be modified consistent with the annuity elected by the member.

SEC. 57. Section 24402 of the Education Code is amended to read:

24402. (a) Service retirement allowances, retirement annuities, disability allowances, disability retirement allowances, disability annuities, family allowances, and survivor benefit allowances payable pursuant to this part shall be increased by application of the benefit improvement factor.

(b) Allowances payable to beneficiaries on account of options elected under Section 24300, 24301, or 24307 and annuities payable to annuity beneficiaries under the Defined Benefit Supplement Program shall be increased by application of the improvement factor. This factor shall be applicable on the same date when it would have been applied to the allowance of the deceased person.

(c) The benefit improvement factor shall not be applied to an annuity that is the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of a service or disability retirement.

SEC. 58. Section 24411 of the Education Code is amended to read:

24411. (a) (1) Annual cost-of-living adjustments for retired members, disabled members, and beneficiaries in excess of the 2-percent adjustment authorized by Section 22140 may be included as a General Fund appropriation in the annual Budget Act. In the annual budget submitted to the Legislature, the Governor shall include a budget item equal to 5 percent of the average annualized statewide increase in payroll for certificated personnel over the three previous school years among

school districts, county offices of education, and community college districts.

(2) The amount submitted in the annual Budget Act pursuant to this section shall be considered as part of the overall budget allocations to the public schools and community colleges.

(b) The annual appropriation shall be made to the system on July 1, and shall be placed in a segregated account called the Retirees' Purchasing Power Protection Account. The proceeds of that account are continuously appropriated and shall be distributed annually in quarterly payments commencing on September 1 to retired members, disabled members, and beneficiaries under the Defined Benefit Program as follows:

(1) The proceeds shall be allocated among those retired members, disabled members, and beneficiaries under the Defined Benefit Program whose allowances, after applying the 2-percent adjustment authorized by Section 22140, have the lowest purchasing power percentage, based on the amount that would be paid had the original allowance been increased by the increases in the index then being used by the Department of Finance to measure changes in the cost of living, increasing those allowances to a common minimum purchasing power level. In any year in which the purchasing power of the allowances of all retired members, disabled members, and beneficiaries under the Defined Benefit Program equals not less than 75 percent and additional funds remain from the allocation authorized by this section, those funds shall be allocated by the board to general accounts to reduce the unfunded actuarial liability of the fund.

(2) The board may deduct from the annual appropriation an amount necessary for administrative expenses to implement this section.

(c) The board shall inform each recipient of an allowance under subdivision (b) that the increases are not cumulative, are not part of the base allowance, and shall be available only as appropriated annually in the Budget Act.

(d) The adjustments authorized by this section shall not be included in the base allowance for purposes of calculating the 2-percent adjustment authorized by Section 22140.

(e) It is the ultimate intent and purpose of the Legislature in amending this section by Chapters 323 and 780 of the Statutes of 1983, to achieve a common minimum purchasing power level equal to 75 percent of the purchasing power of the original allowance. It is the present intent of the Legislature that until adequate funds are available to fulfill the ultimate intent, those persons whose allowances have been most impacted by inflation shall be accorded first priority in receiving, pursuant to this section, supplemental cost-of-living adjustments from the Retirees' Purchasing Power Protection Account.

(f) This section shall not be operative in any fiscal year during which, as determined by the board, distributions provided for by Section 24415 are being made.

SEC. 59. Section 24412 of the Education Code is amended to read:

24412. (a) The annual revenues deposited to the Teachers' Retirement Fund pursuant to Section 6217.5 of the Public Resources Code are continuously appropriated without regard to fiscal year for the purposes of this section and shall be distributed annually in quarterly supplemental payments commencing on September 1 of each year to retired members, disabled members, and beneficiaries under the Defined Benefit Program. The amount available for distribution in any year shall be the income for that year from the sale or use of school lands and lieu lands, as estimated by the State Lands Commission prior to the beginning of the fiscal year, adjusted by the difference between the estimated and actual income for the preceding fiscal year. The board shall deduct from the revenues an amount necessary for administrative expenses to implement this section.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances under the Defined Benefit Program, after sequentially applying the annual improvement factor as defined in Section 22140 and the annual supplemental payment as specified in Section 24411, if any, are below 75 percent of the original purchasing power. The purchasing power calculation for each individual allowance shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of the distribution. The allocation shall provide a pro rata share of the amount needed to restore the allowance payable, after sequential application of the current year annual improvement factor and the supplemental payment under Section 24411, to 75 percent of the original purchasing power.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) In any year that the net revenues from school lands and lieu lands is greater than that needed to adjust the allowances of all retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, under the Defined Benefit Program to 75 percent of the original purchasing power, the net revenues in excess of that needed for distribution shall be used by the board to reduce the unfunded actuarial obligation of the fund.

(e) The board shall inform each recipient of supplemental payments under this section that the increases are not cumulative and are not part of the base allowance.

SEC. 60. Section 24415 of the Education Code is amended to read:

24415. (a) The proceeds of the Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments commencing on September 1, 1990, to retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 75 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Section 24412.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as specified in Section 24412, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of distribution. In any year in which the purchasing power of the allowances of all retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, equals not less than 75 percent and additional funds remain from the allocation authorized by this section, those funds shall remain in the Supplemental Benefit Maintenance Account for allocation in future years.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The increases provided by subdivision (b) are not cumulative, not part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The adjustments authorized by this section are vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954 and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

SEC. 61. Section 24417 of the Education Code is amended to read:

24417. (a) The proceeds of an auxiliary Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments, commencing when funds in the Supplemental Benefit Maintenance Account are insufficient to support 75 percent, to retired members, disabled members, and beneficiaries, as defined in

subdivision (a) of Section 22107. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 75 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Sections 24412 and 24415.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as specified in Sections 24412 and 24415, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of the benefit effective date and June of the fiscal year preceding the fiscal year of distribution.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The increases provided by subdivision (b) are not cumulative, nor part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account and the auxiliary Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The distributions authorized by this section are vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954 and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

SEC. 62. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance. An allowance payable because of a full-time student shall terminate on the first day of the month following the end of the school quarter or semester that is in progress in the month the full-time student attains 22 years of age. Any adjustment to an allowance because of a full-time student's periods of nonattendance shall be made as follows: the allowance shall cease on the first day of the month in which return to full-time attendance was required and shall begin to accrue again on the first day of the month in which full-time attendance resumes.

(g) Supplemental payments issued under this part pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986, as amended, and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part, and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70 $^{1}/_{2}$ years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70 $^{1}/_{2}$ years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary,

or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), ''terminates employment'' means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

SEC. 63. Section 25000 of the Education Code is amended and renumbered to read:

25900. (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.

SEC. 64. Section 25100 of the Education Code is amended and renumbered to read:

25901. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

SEC. 65. Section 25110 of the Education Code is amended and renumbered to read:

25910. ''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.

SEC. 66. Section 25115 of the Education Code is amended and renumbered to read:

25915. (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.

SEC. 67. Section 25120 of the Education Code is amended and renumbered to read:

25920. ''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.

SEC. 68. Section 25125 of the Education Code is amended and renumbered to read:

25925. ''Member'' means a current or retired employee of an employer, as defined in Section 22131.

SEC. 69. Chapter 38 (commencing with Section 25000) is added to Part 13 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 38. DEFINED BENEFIT SUPPLEMENT PROGRAM

Article 1. General Provisions

25000. The Defined Benefit Supplement Program is hereby established to provide supplemental benefits for members of the Defined Benefit Program. The Teachers' Retirement Board shall administer the Defined Benefit Supplement Program in accordance with the provisions of this chapter.

25000.5. The design and administration of the Defined Benefit Supplement Program shall comply with the applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code. The board may amend the plan with respect to the Defined Benefit Supplement Program to do any of the following:

(a) Comply with applicable federal law and regulations to the extent permitted by law.

(b) Adopt or amend actuarial assumptions.

(c) Designate the initial plan year.

(d) Establish and revise the minimum interest rate.

(e) Declare an additional earnings credit.

(f) Declare an additional annuity credit.

25000.7. (a) A member shall have a vested right to a benefit under the Defined Benefit Supplement Program in an amount equal to the balance of credits in the member's Defined Benefit Supplement account. That right shall accrue when the member's Defined Benefit Supplement account is established pursuant to Section 25004.

(b) If a person becomes entitled to a distribution from the program under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect, under terms and conditions established by the board, to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the program of the amount so designated, once distributable under the terms of the program, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

Article 2. Program Accounts

25001. (a) The board shall establish a segregated account within the retirement fund to be known as the Gain and Loss Reserve, and the board shall have sole authority over the reserve. The Gain and Loss Reserve shall be maintained for the Defined Benefit Supplement Program and may be used to credit interest at the minimum interest rate for plan years in which the board determines that the obligation cannot be met from investment earnings. The Gain and Loss Reserve may also be used to provide additions to the Annuitant Reserve for monthly annuities payable under the Defined Benefit Supplement Program.

(b) The board shall establish a goal for the balance of the Gain and Loss Reserve and periodically shall review the sufficiency of the reserve based on the recommendations of the actuary.

(c) The board may allocate excess earnings of the plan with respect to assets attributable to the Defined Benefit Supplement Program to the Gain and Loss Reserve. Upon the recommendation of the actuary, the board shall determine annually the amount, if any, that is to be allocated to the Gain and Loss Reserve for that plan year. That determination shall be made upon recommendation of the actuary after adoption of the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year. In determining whether to allocate excess earnings to the Gain and Loss Reserve, the board shall consider all of the following:

(1) Whether or not the plan has excess earnings attributable to the Defined Benefit Supplement Program.

(2) The sufficiency of the Gain and Loss Reserve in light of the goal established pursuant to subdivision (b).

(3) The amount required for the plan's administrative costs with respect to the Defined Benefit Supplement Program.

(4) The amount required for crediting members' accounts at the minimum interest rate.

25002. The board shall establish and maintain a segregated account within the retirement fund to be known as the Annuitant Reserve and the board shall have sole authority over the reserve. The Annuitant Reserve shall be used for the payment of annuities under the Defined Benefit Supplement Program. The board shall transfer the balance in a member's accumulated Defined Benefit Supplement account to the reserve when a benefit is to be paid as an annuity.

25003. The board may transfer amounts between the Gain and Loss Reserve and the Annuitant Reserve upon the recommendation of the actuary.

25004. Member accounts under the Defined Benefit Supplement Program shall be nominal accounts. Member contributions and employer contributions on behalf of the member that are specifically identified as creditable to the Defined Benefit Supplement Program shall be treated as credits to the member's Defined Benefit Supplement account, together with interest credited at the minimum interest rate and additional earnings credit thereon. The balance of credits in a member's account shall determine the amount to which the member is entitled under the Defined Benefit Supplement Program upon termination of employment subject to coverage by the plan. The member shall not have a right or claim to any specific assets of the account, program, plan, or retirement fund.

25005. (a) Prior to July 1 of the initial plan year, and prior to the beginning of each plan year thereafter, the board shall adopt a plan amendment with respect to the Defined Benefit Supplement Program to declare the rate at which interest shall be credited to Defined Benefit Supplement accounts for the following plan year.

(b) The minimum interest rate declared annually by the board shall be in accordance with applicable federal laws and related regulations and shall not be less than the rate at which interest is credited under the Defined Benefit Program.

(c) Interest shall be credited to Defined Benefit Supplement accounts and shall be computed at the minimum interest rate on the balance of credits in a member's account and shall be compounded daily.

(d) Credited interest shall not be applied to the balance of credits in a member's Defined Benefit Supplement account that has been transferred to the Annuitant Reserve.

25006. (a) The board may declare an additional earnings credit to be applied to Defined Benefit Supplement accounts for a plan year. Prior to declaring an additional earnings credit, the board shall consider all of the following:

(1) Whether the plan's investment earnings with respect to the Defined Benefit Supplement Program for the plan year exceed the amount required to meet the liabilities identified in paragraphs (2), (3), and (4).

(2) The amount required for the plan year to credit interest on members' nominal accounts at the minimum interest rate.

(3) The amount of the plan's administrative expenses with respect to the Defined Benefit Supplement Program for the plan year.

(4) The sufficiency of the Gain and Loss Reserve and whether any additions must be made to that reserve.

(b) For any plan year that the board declares an additional earnings credit, the board shall specify the amount to be added to members' accounts as a percentage increase. The additional earnings credit shall be applied to the balance of credits in each member's nominal account as of the last day of the plan year and shall be applied as of the date specified by the board. The additional earnings credit shall not be added to the balance of credits in a member's Defined Benefit Supplement account that has been transferred to the Annuitant Reserve.

(c) The declaration of an additional earnings credit shall be made as a plan amendment adopted by the board with respect to the Defined Benefit Supplement Program upon recommendation of the actuary after adoption of the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year.

25007. When the board declares an additional earnings credit for a plan year, the board also may declare by plan amendment an additional annuity credit, for members and annuity beneficiaries who are receiving an annuity, based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve. The additional annuity credit, if declared by the board, shall be paid in a lump-sum. In addition to the considerations specified in Section 25006, prior to declaring an additional earnings credit, the board shall consider both of the following:

(a) The amount required for the plan year to apply the additional earnings credit to the Defined Benefit Supplement accounts of members who are not receiving an annuity under the Defined Benefit Supplement Program for the plan year.

(b) Any other obligations incurred by the plan with respect to the Defined Benefit Supplement Program.

25008. (a) A member's right to an amount equal to the balance of credits in the member's Defined Benefit Supplement account shall be vested at the time contributions are initially credited to the member's account.

(b) A partial distribution of the amount equal to the balance of credits in a member's Defined Benefit Supplement account shall not be made, except as provided in Section 25009 or 25016.

Article 3. Retirement Benefits

25009. (a) A member's retirement benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(b) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a retirement benefit.

(c) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

25010. (a) A member who meets the following eligibility requirements may receive a retirement benefit under the Defined Benefit Supplement Program:

(1) The member has terminated all employment to perform creditable service subject to coverage by the plan. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.

(2) The member has retired for service under the Defined Benefit Program pursuant to Chapter 27 (commencing with Section 24201).

(b) A member shall submit an application for a retirement benefit on a form prescribed by the system.

25011. (a) A member may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable equals at least three thousand five hundred dollars ($3,500).

(b) If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable

to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance, if any, of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) A 100 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity shall be payable to the member without modification as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(4) A 50 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity shall be payable to the member without modification as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable over a specified number of years, from a minimum of three years to a maximum of 10 years, until the annuity amount paid equals the amount of credits that was in the member's Defined Benefit Supplement account. However, the annuity period shall not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity.

Article 4. Annuities

25012. An annuity payable under the Defined Benefit Supplement Program shall be determined as a value actuarially equivalent to the balance of credits in the member's Defined Benefit Supplement account on the date the benefit becomes payable and after any lump-sum payment. If a single life annuity is elected, the annuity shall be calculated using the age of the member on the date the benefit becomes payable. If a joint and survivor annuity is elected, the annuity shall be calculated using the age of the member and the age of the member's beneficiary on the date the benefit becomes payable.

25013. Upon election by the member to receive a benefit payable under the Defined Benefit Supplement Program in the form of an annuity, the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve.

25014. (a) If a member reinstates from service retirement under this part, payment of a retirement annuity based on the balance of credits that was transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) The actuarial equivalent of the annuity on the date the annuity is terminated shall be calculated using the actuarial assumptions that were in effect on the date the retirement annuity became payable. In determining the actuarial equivalent, the age of the member on the date the retirement annuity became payable shall be used if the member was receiving a single life annuity. If the member was receiving a joint and survivor annuity, the age of the member and the age of the member's annuity beneficiary on the date the retirement annuity became payable shall be used to determine the actuarial equivalent.

(c) If the member subsequently retires again, an annuity based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent retirement shall become payable pursuant to Section 24202.5 and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve.

25015. (a) If a member elects to receive a benefit payable under the Defined Benefit Supplement Program as a joint and survivor annuity, the member shall designate an annuity beneficiary on the benefit application. The annuity beneficiary designation shall not be changed after the date the benefit becomes payable to the member, except as provided in Chapter 12 (commencing with Section 22650).

(b) A member who elects to receive a joint and survivor annuity may designate more than one annuity beneficiary. If the member designates multiple annuity beneficiaries, the member shall specify the percentage of the annuity payable to each annuity beneficiary upon the death of the member. The annuity amount payable to the member during his or her lifetime shall be modified to be payable over the combined lives of the member and the annuity beneficiaries.

(c) If the member predeceases an annuity beneficiary, the annuity beneficiary may designate a payee to receive an amount that may be payable in a lump-sum pursuant to Section 25023 upon the death of the annuity beneficiary.

Article 5. Disability Benefits

25016. (a) A member's disability benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable.

(b) A disability benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a disability benefit.

(c) Upon distribution of the entire disability benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

25017. (a) A member who meets the following eligibility requirements may receive a disability benefit under the Defined Benefit Supplement Program:

(1) The member has terminated all employment to perform creditable service subject to coverage by the plan. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.

(2) The member has been approved to receive a disability allowance pursuant to Chapter 25 (commencing with Section 24001) or a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) under the Defined Benefit Program.

(b) The member, or the member's employer or conservator on behalf of the member, shall submit an application for a disability benefit on a form prescribed by the system.

25018. (a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars ($3,500).

(b) If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance, if any, of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) A 100 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity shall be payable to the member without modification as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(4) A 50 percent joint and survivor annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. If the annuity beneficiary predeceases the member, the annuity shall be payable to the member without modification as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable over a specified number of years, from a minimum of three years to a maximum of 10 years, until the annuity amount paid equals the amount of credits that was in the member's Defined Benefit Supplement account. However, the annuity period shall not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity.

25019. (a) If a member's disability allowance or disability retirement allowance under this part is terminated, payment of a disability annuity based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve also shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) The actuarial equivalent of the annuity on the date the annuity is terminated shall be calculated using the actuarial assumptions that were in effect on the date the disability annuity became payable. In determining the actuarial equivalent, the age of the member on the date the disability annuity became payable shall be used if the member was receiving a single life annuity. If the member was receiving a joint and survivor annuity, the age of the member and the age of the member's annuity beneficiary on the date the disability allowance or disability retirement allowance became payable shall be used to determine the actuarial equivalent.

(c) If a disability allowance or disability retirement allowance subsequently becomes payable again, an annuity based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent disability or disability retirement becomes payable and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve.

Article 6. Final Benefits

25020. (a) A final benefit under the Defined Benefit Supplement Program shall become payable to the member's beneficiary when the system receives proof of the member's death.

(b) If the member's death occurs before an annuity under the Defined Benefit Supplement Program becomes payable, the final benefit shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death.

(c) Upon distribution of a final benefit in a lump-sum payment, no other benefit shall be payable under the Defined Benefit Supplement Program to the member's beneficiary.

25021. (a) A beneficiary may elect to receive the final benefit payable under the Defined Benefit Supplement Program as an annuity payable in monthly installments provided the balance of credits in the member's Defined Benefit Supplement account equals at least three thousand five hundred dollars ($3,500).

(b) A beneficiary who elects to receive an annuity shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the beneficiary if the beneficiary elected to receive the final benefit in a lump-sum payment. The annuity shall cease to be payable upon the death of the beneficiary, and no other benefit will be payable under the Defined Benefit Supplement Program because of the death of the member and the member's beneficiary.

(2) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death. The annuity shall be payable over a specified number of years, from a minimum of three years to a maximum of 10 years, but not to exceed the life expectancy of the beneficiary, until the annuity amount paid equals the amount of credits that was in the member's Defined Benefit Supplement account. The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary's death occurs prior to the end of the period certain.

(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity.

25022. (a) If the death of a member occurs while the member is receiving an annuity under the Defined Benefit Supplement Program, the final benefit shall be payable in accordance with the terms of the annuity elected by the member.

(b) If the member was receiving a single life annuity without a cash refund feature, a final benefit shall not be payable.

(c) If the member was receiving a single life annuity with a cash refund feature, the final benefit shall be payable in a lump-sum to the member's beneficiary.

(d) If the member was receiving a joint and survivor annuity, the annuity shall continue to be paid to the surviving designated annuity beneficiary. If the designated annuity beneficiary predeceases the member, a final benefit shall not be payable.

(e) If the member was receiving a period certain annuity, the remaining balance of payments shall be paid to the annuity beneficiary designated by the member.

25023. (a) Upon the death of an annuity beneficiary who was receiving an annuity under a joint and survivor annuity elected by the member no further payment shall be made.

(b) If the annuity beneficiary was receiving an annuity under a joint and survivor option, no further payment shall be made.

(c) Upon the death of a beneficiary who was receiving a single life annuity without a cash refund feature, no further payment shall be made.

(d) Upon the death of a beneficiary who was receiving a period certain annuity, the remaining balance of payments shall be paid in a lump-sum to the payee designated by the beneficiary pursuant to subdivision (c) of Section 25015.

Article 6. Termination Benefits

25024. (a) Upon the termination of all employment to perform creditable service subject to coverage under the plan for a reason other than retirement, disability, or death, a member shall be eligible for a termination benefit under the Defined Benefit Supplement Program. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.

(b) A member shall submit an application for a termination benefit on a form prescribed by the system.

(c) The termination benefit shall be a lump-sum payment that is equal to the balance of credits in the member's Defined Benefit Supplement account.

(d) Upon distribution of the termination benefit, no further benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

25025. A termination benefit under the Defined Benefit Supplement Program shall be payable after one calendar year has elapsed following the date the member terminated employment as

specified in Section 25024. If the member performs creditable service within one year of the prior termination of employment, the termination benefit shall not be payable.

25026. The member may cancel an application for a termination benefit at any time prior to distribution of the benefit.

CHAPTER 75

An act to amend Section 17039 of, and to add Section 17052.2 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

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

(a) Roughly 50 percent of teachers leave the profession by the fifth year of teaching.

(b) It is the intent of the Legislature to encourage teachers to remain in the profession by providing a combination of tax and retirement benefits.

(c) This tax credit is designed to encourage teacher retention and to compensate teachers for unreimbursed expenses related to professional development and classroom instruction such as materials and supplies.

SEC. 2. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term ''net tax'' means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the ''net tax'' shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against ''net tax'' in the following order:

(1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits that contain carryover provisions but do not contain refundable provisions.

(3) Credits that contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(6) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17061 (relating to refunds pursuant to the Unemployment Insurance Code) and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits, but only after allowance of the credit allowed by Section 17063:

(A) The credit allowed by Section 17052.2 (relating to teacher retention tax credit).

(B) The credit allowed by former Section 17052.4 (relating to solar energy).

(C) The credit allowed by former Section 17052.5 (relating to solar energy).

(D) The credit allowed by Section 17052.5 (relating to solar energy).

(E) The credit allowed by Section 17052.12 (relating to research expenses).

(F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit).

(G) The credit allowed by Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit).

(H) The credit allowed by Section 17053.5 (relating to the renter's credit).

(I) The credit allowed by former Section 17053.8 (relating to enterprise zone hiring credit).

(J) The credit allowed by former Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit).

(K) The credit allowed by former Section 17053.11 (relating to program area hiring credit).

(L) For each taxable year beginning on or after January 1, 1994, the credit allowed by former Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit).

(M) The credit allowed by Section 17053.33 (relating to targeted tax area sales or use tax credit).

(N) The credit allowed by Section 17053.34 (relating to targeted tax area hiring credit).

(O) The credit allowed by Section 17053.49 (relating to qualified property).

(P) The credit allowed by Section 17053.70 (relating to enterprise zone sales or use tax credit).

(Q) The credit allowed by Section 17053.74 (relating to enterprise zone hiring credit).

(R) The credit allowed by Section 17054 (relating to credits for personal exemption).

(S) The credit allowed by Section 17057 (relating to clinical testing expenses).

(T) The credit allowed by Section 17058 (relating to low-income housing).

(U) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(V) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(W) The credit allowed by Section 19002 (relating to tax withholding).

(2) Any credit that is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than husband and wife) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit shall be allocated among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either or equally divided between them.

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any

limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

(g) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity shall be limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's ''net tax,'' as defined in subdivision (a), for the taxable year shall be limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 17062), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to that disregarded business entity. No credit shall be allowed if the taxpayer's regular tax (as defined in Section 17062), determined by including the income attributable to the disregarded business entity, is less than the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (c) and (d).

SEC. 3. Section 17052.2 is added to the Revenue and Taxation Code, to read:

17052.2. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the ''net tax'' (as defined by Section 17039) to a credentialed teacher an amount equal to the amount determined in subdivision (b).

(b) The amount of the credit shall be the lesser of the amounts computed under paragraph (1) or (2):

(1) In the case of any credentialed teacher who has, as of the last day of the taxable year:

(A) Completed at least four but less than six years of service as a credentialed teacher, the credit shall be two hundred fifty dollars ($250).

(B) Completed at least six but less than 11 years of service as a credentialed teacher, the credit shall be five hundred dollars ($500).

(C) Completed at least 11 but less than 20 years of service as a credentialed teacher, the credit shall be one thousand dollars ($1,000).

(D) Completed 20 or more years of service as a credentialed teacher, the credit shall be one thousand five hundred dollars ($1,500).

(E) For purposes of determining years of service, years of service performed as a teacher in a qualified education institution, which otherwise meets the criteria specified in subdivision (d) except that the qualified education institution is not located in this state, in another state shall qualify for each year the teacher was credentialed by the public education agency in that state.

(2) In no event shall the amount of credit allowed in any taxable year under this section exceed an amount equal to 50 percent of the amount of tax that would be imposed on the taxpayer's income attributable to service as a teacher. This limitation shall be determined as follows:

(A) Multiply by 50 percent the difference between the amount computed under subparagraph (B) and the amount computed under subparagraph (C).

(B) Determine the amount of tax on total income as follows:

(i) The taxpayer's total adjusted gross income from all sources, less either the standard deduction allowed under Section 17073.5 or those itemized deductions allowed to the taxpayer under this part.

(ii) Compute the amount of tax that would be imposed under Section 17041 or 17048 on the amount computed under clause (i).

(iii) Subtract from the amount of tax determined under clause (ii) any credits allowed under Chapter 2 (commencing with Section 17041).

(C) Determine the amount of tax on income from sources other than that received as compensation for services as a teacher as follows:

(i) The taxpayer's total adjusted gross income from all sources, less all of the following:

(I) The amount received as compensation for services as a teacher for the taxable year.

(II) Either the standard deduction allowed under Section 17073.5 or those itemized deductions allowed to the taxpayer under this part.

(ii) Compute the amount of tax that would be imposed under Section 17041 or 17048 on the amount computed under clause (i).

(iii) Subtract from the amount of tax determined under clause (ii) any credits allowed under Chapter 2 (commencing with Section 17041).

(3) For purposes of this subdivision, ''compensation for services as a teacher'' includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(c) ''Credentialed teacher'' means a person who holds a preliminary or professional clear credential as determined by the Commission on Teacher Credentialing pursuant to Article 1 (commencing with Section 44200) of Chapter 2 of Part 25 of Division 2 of Title 2 of the Education Code and who teaches at a qualifying educational institution.

(d) ''Qualifying educational institution'' means any elementary, secondary, or vocational-technical school located in this state providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof. ''Qualifying educational institution'' includes an agency or instrumentality of the federal government providing education for grades kindergarten, grades 1 to 12, inclusive, or any part thereof, at any location within this state, including an Indian reservation or a military installation located within the geographical borders of this state, where a credentialed teacher is employed by the federal government or an agency or instrumentality thereof. ''Qualifying educational institution'' includes any elementary, secondary, vocational technical school located in California, that files an affidavit pursuant to Section 33190 and 33191 of the Education Code, and provides education for kindergarten and grades 1 to 12, inclusive, or any part thereof.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 76

An act to amend Section 62 of Chapter 78 of the Statutes of 1999, relating to school finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 62 of Chapter 78 of the Statutes of 1999 is amended to read:

62. Notwithstanding any other provision of law, for the purposes of Sections 14002, 14004, and 41301 of the Education Code for the 2000–01 fiscal year and every fiscal year thereafter, the Superintendent of Public Instruction shall certify to the Controller amounts that do not exceed the amounts needed to fund the revenue limits of school districts, as determined pursuant to Section 42238 of the Education Code, and the revenue limits of county superintendents of schools as determined pursuant to Section 2558 of the Education Code , and the revenue limit portion of charter school operational funding as determined pursuant to Section 47633 of the Education Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 2000 with respect to the public schools, it is necessary that this act take effect immediately.

CHAPTER 77

An act to amend Sections 400, 404, 406, and 99220 of, to amend the heading of Article 2 (commencing with Section 99220) of Chapter 5 of Part 65 of, to amend and renumber Section 99221 of, and to add Sections 99221, 99222, 99224, 99225, and 99225.5 to, the Education Code, relating to teachers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 400 of the Education Code is amended to read:

400. (a) The Legislature finds and declares that English language proficiency is critical to academic success. It is, therefore, the intent of the Legislature to enact the English Language Acquisition Program to improve the English proficiency of California pupils, so that those pupils are better able to meet the state's academic content and performance standards. It is the intent of the Legislature that the pupils participating in this program meet grade level English language development standards established pursuant to Section 60811, as well as grade level standards in reading, writing, mathematics, science, and history/social science established pursuant to Section 60605.

(b) It is the intent of the Legislature that the English Language Acquisition Program be administered consistent with research-based strategies for teaching English language learners, as well as the program set forth in Chapter 3 (commencing with Section 300), as applicable.

(c) It is further the intent of the Legislature that the data developed through this program be used to inform curriculum, instruction, assessment, research, inservice staff development, and teacher preparation regarding use of the most effective practices for teaching English language learners.

SEC. 2. Section 404 of the Education Code is amended to read:

404. (a) (1) The Superintendent of Public Instruction shall allocate to each participating local educational agency, for each pupil enrolled in any of grades 4 to 8, inclusive, and identified as eligible for participation

in the program established pursuant to this chapter one hundred dollars ($100) per school year.

(2) If the available funding is insufficient to support the minimum allocation set forth in paragraph (1), the Superintendent of Public Instruction shall give priority for funding to schools with the highest proportion of pupils enrolled who are identified as English language learners.

(b) (1) From funds appropriated specifically for this purpose, local educational agencies may receive an allocation of one hundred dollars ($100) on a one-time basis for each English language learner enrolled in kindergarten or any of grades 1 to 12, inclusive, who is reclassified to English-fluent status. Each local educational agency applying for an allocation pursuant to this subdivision shall describe the procedures and criteria for reclassification of English language learners to English-fluent status. A local educational agency may not claim funding pursuant to subdivision (a) for any pupil who has been classified as fluent in the English language if the local educational agency has received funding on behalf of that pupil pursuant to this subdivision. In order to be eligible for funding pursuant to this subdivision, a local educational agency shall implement the English language development assessment established pursuant to Section 60810.

(2) This subdivision shall only be implemented upon adoption of English language development standards by the State Board of Education pursuant to Section 60811.

(c) Not later than 60 days after the effective date of the act adding this section, the Superintendent of Public Instruction shall notify local educational agencies of the availability of funds for the English Language Acquisition Program. For purposes of this chapter, ''local educational agency'' means a school district, charter school, or county office of education. Each local educational agency shall have the opportunity to request funds appropriated for the purposes of this chapter not later than 60 days after the notification from the Superintendent of Public Instruction.

(d) As a condition of receiving funds under subdivision (a), each local educational agency shall certify that it will do all of the following:

(1) Conduct academic assessments of English language learners to ensure appropriate placement of those pupils. The assessments shall include:

(A) Initial assessment of English language learners to determine their English proficiency level.

(B) Ongoing assessment conducted at least annually to ensure accurate placement of English language learners, to communicate progress, and to provide formative assessment information to refine the program. Assessment measures shall include, but are not limited to, the

state standardized testing and reporting program required by Section 60640, unless a pupil is exempted by law, and the English language development assessment instrument to be developed pursuant to Section 60810, when it is developed.

(2) Provide a program for English language development instruction to assist pupils in successfully achieving the English language development standards adopted by the State Board of Education pursuant to Section 60811. The program shall include structured immersion instruction to be provided for English learners, such as specially designed academic instruction in English and sheltered English strategies to ensure access by English language learners to the core curriculum, unless the local educational agency has obtained a waiver pursuant to Section 310.

(3) Provide supplemental instructional support, such as intersession, before and after school opportunities or summer school, to provide English language learners with continuing English language development. These opportunities are to supplement the regular school program and may include, but are not limited to, newcomer centers and tutorial support, mentors, or any other program that meets the objectives of the program established pursuant to this chapter. Academic support services needed to provide these opportunities may be funded by this program.

(4) Coordinate services and funding sources available to English language learners, including, but not limited to, community-based English tutoring programs established pursuant to Article 4 (commencing with Section 315) of Chapter 3, programs for at-risk youth, after-school, intersession, and summer school programs, reading programs established pursuant to Chapter 16 (commencing with Section 53025) of Part 28 and any available federal funds. The local educational agency shall also certify that it integrates adult community-based tutoring resources with the program established pursuant to this chapter.

(e) Funding allocated pursuant to this chapter shall supplement existing resources supporting language acquisition for English language learners in grades 4 to 8, inclusive. Funds may be used for any of the purposes identified in the program established pursuant to this chapter.

(f) Funding for this program is contingent on an appropriation specifically for this purpose in the annual Budget Act or any other measure.

SEC. 3. Section 406 of the Education Code is amended to read:

406. (a) The Regents of the University of California are requested to authorize the President of the University of California or his or her designee to jointly develop English Language Development Professional Institutes with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the

independent colleges and universities, and the Superintendent of Public Instruction, or their designees. In order to provide maximum access, the institutes shall be offered at sites widely distributed throughout the state. The California subject matter projects, an intersegmental, discipline-based professional development network administered by the University of California, is requested to be the organizing entity for the institutes and follow-up programs.

(b) (1) Commencing in the 1999–2000 academic year, the institutes shall provide instruction for school teams from each school participating in the program established pursuant to this chapter. Commencing in the 2000–01 academic year, the institutes may provide instruction for school teams serving English language learners in kindergarten and grades 1 to 12, inclusive. A school team shall include teachers who do not hold cross-cultural or bilingual cross-cultural certificates or their equivalents, teachers who hold those certificates or their equivalents, and a schoolsite administrator. The majority of the team shall be teachers who do not hold those cross-cultural certificates or their equivalents. If the participating school team employs instructional assistants who provide instructional services to English language learners, the team may include these instructional assistants.

(2) Commencing in July 2000, the English Language Development Institutes shall provide instruction to an additional 10,000 participants. These participants shall be in addition to the 5,000 participants authorized as of January 1, 2000. Commencing July 2001, and each fiscal year thereafter, the number of participants receiving instruction through the English Language Development Institutes shall be specified in the annual Budget Act.

(3) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' reading scores are at or below the 40th percentile on the English language arts portion of the achievement test authorized by Section 60640.

(B) Schools in which a high percentage of pupils score below grade level on the English language development assessment authorized by Section 60810, when it is developed.

(C) Schools with a high number of new, underprepared, and noncredentialed teachers. Underprepared teachers shall be defined as teachers who do not possess a cross-cultural or bilingual cross-cultural certificate, or their equivalents.

(D) Schools in which the enrollment of English language learners exceeds 25 percent of the total school enrollment.

(E) Schools with a full complement of team members as described in paragraph (1).

(3) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (C) of paragraph (2).

(c) Each team member who satisfactorily completes an institute authorized by this section shall receive a stipend, commensurate with the duration of the institute, of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), as determined by the University of California.

(d) Instruction provided by the institutes shall be consistent with state-adopted academic content standards and with the English language development standards adopted pursuant to Section 60811.

(e) (1) Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 80 hours during the summer or during an intersession break and shall be supplemented during the following school year with no fewer than 80 hours nor more than 120 hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of English language learners at that school.

(2) Instruction at the institutes shall be of sufficient scope, depth, and duration to fully equip instructional personnel to offer a comprehensive and rigorous instructional program for English language learners and to assess pupil progress so these pupils can meet the academic content and performance standards adopted by the State Board of Education. The instruction shall be designed to increase the capacity of teachers and other school personnel to provide and assess standards-based instruction for English language learners.

(3) The instruction shall be multidisciplinary and focus on instruction in disciplines for which the State Board of Education has adopted academic content standards. The instruction shall also be research-based and provide effective models of professional development in order to ensure that instructional personnel increase their skills, at a minimum, in all of the following:

(A) Literacy instruction and assessment for diverse pupil populations, including instruction in the teaching of reading that is research-based and consistent with the balanced, comprehensive strategies required under Section 44757.

(B) English language development and second language acquisition strategies.

(C) Specially designed instruction and assessment in English.

(D) Application of appropriate assessment instruments to assess language proficiency and utilization of benchmarks for reclassification of pupils from English language learners to fully English proficient.

(E) Examination of pupil work as a basis for the alignment of standards, instruction, and assessment.

(F) Use of appropriate instructional materials to assist English language learners to attain academic content standards.

(G) Instructional technology and its integration into the school curriculum for English language learners.

(H) Parent involvement and effective practices for building partnerships with parents.

(f) It is the intent of the Legislature that a local educational agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of the course requirements to an enrolled candidate who satisfactorily completes a California English Language Development Institute program if the program has been certified by the Commission on Teacher Credentialing as meeting preparation standards.

(g) Nothing in this section shall be construed to prohibit a team member from attending an institute authorized by this section in more than one academic year.

(h) This section shall not apply to the University of California unless and until the Regents of the University of California act, by resolution, to make it applicable.

SEC. 4. The heading of Article 2 (commencing with Section 99220) of Chapter 5 of Part 65 of the Education Code is amended to read:

Article 2. California Professional Development Institutes

SEC. 5. Section 99220 of the Education Code is amended to read:

99220. The Regents of the University of California are requested to jointly develop with the Trustees of California State University and the independent colleges and universities, the California Reading Professional Development Institutes, to be administered by the university, in partnership with the California State University and with private, independent universities in California, in accordance with all of the following criteria:

(a) (1) In June 1999, the University of California and its institutes' partners shall commence instruction for 6,000 participants who either provide direct instruction in reading to pupils in kindergarten or in grade 1, 2, or 3, or who supervise beginning teachers of reading. Commencing in July 2000, the institutes shall provide instruction for an additional 14,000 participants who either provide direct instruction in reading to pupils, including special education pupils, in prekindergarten, kindergarten or in grade 1, 2, or 3, or supervise beginning teachers of reading. Of the 14,000 new positions, at least 2,000 shall be reserved for

prekindergarten teachers who teach in state preschool programs located in the attendance area of low-performing schools in order to link prekindergarten literacy development and reading readiness to the state's reading goals for pupils enrolled in kindergarten and grades 1 to 3, inclusive. If there are not enough applicants to fill the 2,000 positions, the remaining positions may be filled by teachers of pupils enrolled in kindergarten or any of grades 1 to 3, inclusive.

(2) Ongoing support for second-year participants shall include a second-year institute focusing on the use of instructional materials, leveraging of school district resources, and the development of teacher leadership within the school district to improve pupil achievement in reading.

(b) (1) The institutes shall provide instruction for school teams from each participating school. These school teams may include both beginning and experienced teachers and the schoolsite administrator, with the majority of the team composed of beginning teachers.

(2) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' reading scores are at or below the 40th percentile on the reading portion of the achievement test authorized by Section 60640.

(B) Schools with a high number of beginning and noncredentialed teachers.

(C) Schools with high poverty levels, as determined by the percentage of pupils eligible for free or reduced price meals.

(D) Schools with a full complement of team members as outlined above.

(E) School teams committed to participate in the Elementary School Intensive Reading Program established pursuant to Article 1 (commencing with Section 53025) of Chapter 16 of Part 28 for a minimum of three years.

(F) Schools that have adopted standards-based materials approved by the State Board of Education.

(3) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (B) of paragraph (2).

(c) (1) The institutes shall provide instruction in the teaching of reading in a manner consistent with the standard for a comprehensive reading instruction program that is research-based, as described in subparagraphs (A) and (B) of paragraph (4) of subdivision (b) of Section 44259, and shall include all of the following components:

(A) The study of organized, systematic, explicit skills including phonemic awareness, direct, systematic explicit phonics, and decoding skills.

(B) A strong literature, language and comprehension component with a balance of oral and written language.

(C) Ongoing diagnostic techniques that inform teaching and assessment.

(D) Early intervention techniques.

(2) Instruction provided pursuant to this section shall be consistent with state-adopted academic content standards and with the curriculum framework on reading/language arts adopted by the State Board of Education.

(d) (1) Each participant who satisfactorily completes an institute authorized by this section shall receive a stipend , commensurate with the duration of the institute, of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), as determined by the University of California.

(2) A participant in an institute authorized by this section who satisfactorily completes additional institute activities or leadership and mentoring responsibilities in his or her school in subsequent years in accordance with institute guidelines shall receive a stipend, commensurate with the participant's responsibilities, of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), as determined by the University of California. It is the intent of the Legislature that stipends paid to participants under this paragraph average approximately one thousand dollars ($1,000) per stipend recipient per year.

(e) In order to provide maximum access, the institutes shall be offered on multiple university and college campuses that are widely distributed throughout the state. Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 120 hours during the summer or during an intersession break, and shall be supplemented, during the following school year, with no fewer than 80 additional hours nor more than 120 additional hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of that school's pupils in reading.

(f) It is the intent of the Legislature that a local education agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of reading course requirements to an enrolled candidate who satisfactorily completes a California Reading Professional Development Institute program if the institute has been certified by the Commission on Teacher Credentialing as meeting reading preparation standards.

(g) Nothing in this section shall be construed to prohibit a participant from attending an institute authorized by this section in more than one academic year.

(h) ''Beginning teachers,'' for purposes of this article, are teachers with three or fewer years of teaching experience.

SEC. 6. Section 99221 of the Education Code is amended and renumbered to read:

99226. (a) This article shall apply to the University of California only during periods for which the Legislature has appropriated funds therefor in the annual Budget Act and the Regents of the University of California have accepted the funds.

(b) This article shall not apply to the University of California unless and until the Regents of the University of California act, by resolution, to make it applicable.

(c) The Regents of the University of California are requested to jointly develop with the Trustees of California State University and the independent colleges and universities, the institutes described in this article, to be administered by the University of California, in partnership with the California State University and with private, independent universities in California.

(d) Each participant who satisfactorily completes an institute authorized by this article shall receive a stipend commensurate with the duration of the institute, of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), as determined by the University of California. However, in making this determination, the University of California may not exceed the amount provided in the Budget Act for stipends for each of the institutes authorized by this article and must serve at each institute the number of participants specified pursuant to this section.

(e) Commencing July 2001, and each fiscal year thereafter, the number of participants receiving instruction through each of these institutes shall be designated in the annual Budget Act.

(f) These institutes shall be developed in accordance with all of the criteria specified in each section, as described therein.

SEC. 7. Section 99221 is added to the Education Code, to read:

99221. The Regents of the University of California are requested to develop jointly with the Trustees of the California State University and the independent colleges and universities, the High School English Professional Development Institutes, to be administered by the university, in partnership with the California State University and with private, independent universities in California, in accordance with all of the following criteria:

(a) In July 2000, the University of California and its institutes' partners shall commence instruction for 12,000 participants who either

provide direct instruction in reading and writing to California public high school pupils in grades 9 to 12, inclusive, or supervise beginning teachers of high school reading and writing.

(b) (1) The institutes shall provide instruction for school teams from each participating school. These school teams may include both beginning and experienced teachers and the schoolsite administrator.

(2) Criteria and priority for selection of participating school teams shall include, but is not limited to, all of the following:

(A) Schools whose pupils' scores on the English language arts portion of the achievement test authorized by Section 60640 are at or below the 40th percentile.

(B) Teams composed of a large percentage of the members of their schools' English departments, which may include the chair of that department.

(C) Schools with high poverty levels, as determined by the percentage of pupils eligible for free or reduced price meals.

(D) Teams of teachers from various departments within a school.

(E) Schools with a high number of beginning and noncredentialed teachers.

(F) Schools that have adopted standards-based materials approved by the State Board of Education.

(3) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (E) of paragraph (2).

(c) (1) The institutes shall provide instruction in the teaching of reading and writing in a manner consistent with the standard for a comprehensive reading and writing instruction program that is research-based, as described in subparagraphs (A) and (B) of paragraph (4) of subdivision (b) of Section 44259.

(2) Instruction provided pursuant to this section shall be consistent with state-adopted academic content standards and with the curriculum frameworks on reading/language arts for kindergarten and grades 1 to 12, inclusive, that are adopted by the State Board of Education.

(d) In order to provide maximum access, the institutes shall be offered on multiple university and college campuses that are widely distributed throughout the state. Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 120 hours during the summer or during an intersession break and shall be supplemented, during the following school year, with no fewer than 80 additional hours nor more than 120 additional hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of that school's pupils in English language arts.

(e) It is the intent of the Legislature that a local education agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of English language arts requirements to an enrolled candidate who satisfactorily completes a High School English Professional Development Institute if the institute has been certified by the Commission on Teacher Credentialing as meeting English language arts standards.

SEC. 8. Section 99222 is added to the Education Code, to read:

99222. The Regents of the University of California are requested to develop jointly with the Trustees of California State University and the independent colleges and universities, the High School Mathematics Professional Development Institutes, to be administered by the university, in partnership with the California State University and with private, independent universities in California, in accordance with all of the following criteria:

(a) In July 2000, the University of California and its institutes' partners shall commence instruction for 5,500 participants who either provide direct instruction in mathematics to California public high school pupils in grades 9 to 12, inclusive, or supervise beginning teachers of high school mathematics.

(b) (1) The institutes shall provide instruction for school teams from each participating school. The school teams may include both beginning and experienced teachers and the schoolsite administrator.

(2) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' scores on the mathematics portion of the achievement test authorized by Section 60640 are at or below the 40th percentile.

(B) Teams composed of a large percentage of members of their schools' mathematics departments, which may include the chair of that department.

(C) Schools with high poverty levels, as determined by the percentage of pupils eligible for free or reduced price meals.

(D) Schools with a high number of beginning and noncredentialed teachers.

(E) Schools that have adopted standards-based materials approved by the State Board of Education.

(3) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (D) of paragraph (2).

(c) (1) The institutes shall provide instruction in the teaching of mathematics in a manner consistent with the standard for a

comprehensive mathematics instruction program that is research-based and shall include all of the following components:

(A) Instruction in topics commonly found in high school mathematics courses, including, but not limited to, geometry, algebra II, trigonometry, and calculus, that will enhance the ability of teachers to prepare pupils for the achievement test authorized pursuant to Section 60640 and the high school exit examination authorized pursuant to Section 60850 and to prepare pupils for advanced placement and college coursework.

(B) Ongoing diagnostic techniques that inform teaching and assessment.

(C) Early intervention techniques for pupils experiencing difficulty in mathematics.

(2) Instruction provided pursuant to this section shall be consistent with state-adopted academic content standards and with the curriculum frameworks on mathematics for kindergarten and grades 1 to 12, inclusive, that are adopted by the State Board of Education.

(d) In order to provide maximum access, the institutes shall be offered on multiple university and college campuses that are widely distributed throughout the state. Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 120 hours during the summer or during an intersession break and shall be supplemented, during the following school year, with no fewer than 80 additional hours nor more than 120 additional hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of that school's pupils in mathematics.

(e) It is the intent of the Legislature that a local education agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of mathematics course requirements to an enrolled candidate who satisfactorily completes a High School Mathematics Professional Development Institute if the institute has been certified by the Commission on Teacher Credentialing as meeting mathematics standards.

SEC. 9. Section 99224 is added to the Education Code, to read:

99224. The Regents of the University of California are requested to develop jointly with the Trustees of the California State University and the independent colleges and universities, the Algebra Professional Development Institutes, to be administered by the university, in partnership with the California State University and with private, independent universities in California, in accordance with all of the following criteria:

(a) In July 2000, the University of California and its institutes' partners shall commence instruction for 5,000 participants who either

provide direct instruction in algebra or the coursework in the two years leading to algebra to pupils enrolled in a public school in grades 6 to 12, inclusive, or supervise beginning teachers of algebra.

(b) (1) The institutes shall provide instruction for school teams from each participating school. These school teams may include both beginning and experienced teachers and the schoolsite administrator.

(2) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' scores on the mathematics portion of the achievement examination authorized by Section 60640 are at or below the 40th percentile.

(B) Teams composed of a large percentage of members of their schools' mathematics departments, which may include the chair of that department.

(C) Schools with high poverty levels, as determined by the percentage of pupils eligible for free or reduced price meals.

(D) Schools with a high number of beginning and noncredentialed teachers.

(E) Schools that have adopted standards-based materials approved by the State Board of Education.

(3) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (D) of paragraph (2).

(c) (1) The institutes shall provide instruction in the teaching of prealgebra and algebra in a manner consistent with the standard for a comprehensive mathematics instruction program that is research-based, and shall include all of the following components:

(A) Instruction in prealgebra and algebra that will enhance the ability of teachers to prepare pupils for the achievement test authorized pursuant to Section 60640 and the high school exit examination authorized pursuant to Section 60850.

(B) Ongoing diagnostic techniques that inform teaching and assessment.

(C) Intervention techniques for pupils experiencing difficulty in prealgebra and algebra.

(2) Instruction provided pursuant to this section shall be consistent with state-adopted academic content standards and with the curriculum frameworks on mathematics for kindergarten and grades 1 to 12, inclusive, that are adopted by the State Board of Education.

(d) In order to provide maximum access, the institutes shall be offered on multiple university and college campuses that are widely distributed throughout the state. Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more

than 120 hours during the summer or during an intersession break and shall be supplemented, during the following school year, with no fewer than 80 additional hours nor more than 120 additional hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of that school's pupils in prealgebra and algebra.

(e) It is the intent of the Legislature that a local education agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of mathematics course requirements to an enrolled candidate who satisfactorily completes a High School Algebra Professional Development Institute if the institute has been certified by the Commission on Teacher Credentialing as meeting mathematics standards.

SEC. 10. Section 99225 is added to the Education Code, to read:

99225. The Regents of the University of California are requested to develop collaboratively with the Trustees of the California State University, the independent colleges and universities, and the county offices of education, the Elementary Mathematics Professional Development Institutes, to be administered by the university, in partnership with the California State University and with private, independent universities in California, in accordance with all of the following criteria:

(a) In July 2000, the University of California and its institutes' partners shall commence instruction for 5,000 participants who either provide direct instruction in elementary mathematics to pupils in grades 4 to 6, inclusive, or supervise beginning teachers of elementary mathematics.

(b) (1) The institutes shall provide instruction for school teams from each participating school. These school teams may include both beginning and experienced teachers and the schoolsite administrator.

(2) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' scores on the mathematics portion of the achievement test authorized by Section 60640 are at or below the 40th percentile.

(B) Schools with high poverty levels, as determined by the percentage of pupils eligible for free or reduced price meals.

(C) Schools with a high number of beginning and noncredentialed teachers.

(D) Schools that have adopted standards-based materials approved by the State Board of Education.

(3) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to

schools meeting the criteria set forth in subparagraph (C) of paragraph (2).

(c) (1) The institutes shall provide instruction in the teaching of elementary mathematics in a manner consistent with the standard for a comprehensive mathematics instruction program that is research-based, and shall include all of the following components:

(A) Instruction in elementary mathematics that will enhance the ability of teachers to prepare pupils for the achievement test authorized pursuant to Section 60640 and the high school exit examination authorized pursuant to Section 60850.

(B) Instruction that will prepare teachers as mathematics specialists and to become teacher trainers at their schools, assuming more of the responsibility for mathematics instruction.

(C) Ongoing diagnostic techniques that inform teaching and assessment.

(D) Early and continuing intervention techniques for pupils experiencing difficulty in elementary mathematics.

(2) Instruction provided pursuant to this section shall be consistent with state-adopted academic content standards and with the curriculum frameworks on mathematics for kindergarten and grades 1 to 12, inclusive, that are adopted by the State Board of Education.

(d) In order to provide maximum access, the institutes shall be offered on multiple university and college campuses that are widely distributed throughout the state. Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 120 hours during the summer or during an intersession break, and shall be supplemented, during the following school year, with no fewer than 40 additional hours nor more than 120 additional hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of that school's pupils in elementary mathematics.

(e) It is the intent of the Legislature that a local education agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of mathematics course requirements to an enrolled candidate who satisfactorily completes an Algebra Professional Development Institute if the institute has been certified by the Commission on Teacher Credentialing as meeting mathematics standards.

SEC. 11. Section 99225.5 is added to the Education Code, to read:

99225.5. The University of California and its partners in administering professional development institutes under this article shall annually contract for an independent evaluation of the professional development institutes authorized by Sections 406, 99220, 99221,

99222, 99224, and 99225. The results of this evaluation shall be reported, in writing, to the Legislature no later than January 1, 2002, and annually thereafter.

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 implement the Budget Act of 2000 with respect to the public schools and institutions of higher education, it is necessary that this act take effect immediately.

CHAPTER 78

An act to add Chapter 8.6 (commencing with Section 52270) to Part 28 of the Education Code, relating to education technology, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

CHAPTER 8.6. EDUCATION TECHNOLOGY AND PROFESSIONAL DEVELOPMENT GRANTS

52270. The Education Technology Grant Program is hereby established to provide one-time grants to school districts and charter schools for purposes of acquiring computers for instructional purposes at public schools. The Office of the Secretary for Education shall administer the application process for the award of grants.

(a) The first priority for the use of the funds is to ensure that high school pupils in schools offering three or fewer advanced placement courses have access to advanced placement courses online. Grants awarded for the first priority may be expended to purchase or lease computers and related equipment and for wiring or infrastructure necessary to achieve connectivity to on-line advanced placement courses.

(b) The second priority for the use of the funds is to increase the number of computers available to all other public schools that offer instruction in kindergarten or any of grades 1 to 12, inclusive. Grants awarded for the purposes of the second priority shall be awarded at the school district level and shall be based on a ratio of pupils per computer, as determined by the Office of the Secretary for Education. A school

district that receives a grant shall award the funds to its schools that have the highest number of pupils per computer. Each education technology grant awarded based on the second priority shall only be used for the purchase or lease of computers including system configuration, software, and instructional material. The grant amount awarded to each school district or charter school for the second priority shall be determined by the Office of the Secretary for Education.

(c) All funds awarded pursuant to this section shall be used solely to purchase or lease equipment and related materials for instructional purposes and limited to classroom, library, or technology and media centers in order to provide access to on-line advanced placement courses for pupil and increase the number of computers per pupil. These grant funds are to supplement, not supplant, existing local, state, and federal education technology funds, including Digital High School funds.

(d) To receive a grant pursuant to this section, school districts and charter schools shall have developed an education technology plan or shall develop a plan with the assistance of the California Technology Assistance Project specifically for the use of the funds available pursuant to this section within 90 days after submission of the application for a grant pursuant to this chapter. The plan shall address the use of these and other technology funds to ensure they are used effectively and in a manner consistent with other education technology available at the schoolsite. School districts and charter schools that choose to lease equipment shall include in their technology plan a payment schedule and shall identify the funding source or sources for lease payments over the life of the lease, including, but not limited to, establishing a technology leasing account and amortizing the available state funding over the term of the lease, if appropriate. In addition, the term of the lease shall be no longer than four years unless authorized at local discretion, in which case the lease or purchase shall be funded at local expense. A school district or charter school with an existing certified or approved education technology plan developed pursuant to other provisions of law may utilize the existing plan for the purposes of this program but shall, if necessary, amend that plan to meet the requirements of this subdivision if the school district or charter school chooses to lease the computers.

(e) School districts and charter schools may purchase or lease computers, related equipment and materials, and other goods and services using any statewide or cooperative contracts, schedules, or other agreements, established by the Department of General Services.

(f) Funding for the purposes of this section is contingent on an appropriation made in the annual Budget Act or other legislation, or both.

(g) Funds appropriated to carry out this section in the 2000–01 fiscal year shall only be available to high schools, or charter schools, that serve any of grades 9 to 12, inclusive.

52272. (a) The Education Technology Professional Development Program is hereby established to provide teacher training on the use of technology in the classroom. The professional development training shall provide teachers with knowledge and skills on how best to integrate the use of technology into the classroom and curriculum.

(b) The California State University shall administer the professional development training component of the program and shall collaborate with the California Technology Assistance Project, county offices of education, and other appropriate public and private organizations in developing and providing this training.

(c) The Secretary for Education, in collaboration with the Chancellor of the California State University, shall select a contractor to conduct an independent evaluation of the effectiveness of the Education Technology Professional Development Program. Upon completion, the report shall be submitted to the Governor and the Legislature by January 1, 2002.

(d) Funding for the purposes of this section is contingent on an appropriation made for those purposes in the annual Budget Act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 2000 with respect to the public schools and higher education, it is necessary that this act take effect immediately.

CHAPTER 79

An act to add Chapter 13 (commencing with Section 92900) to Part 57 of the Education Code, relating to the University of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Chapter 13 (commencing with Section 92900) is added to Part 57 of the Education Code, to read:

CHAPTER 13. CALIFORNIA INSTITUTES FOR SCIENCE AND INNOVATION

92900. (a) The Regents of the University of California may establish three California Institutes for Science and Innovation at separate campuses of the University of California for the purpose of combining technological and scientific research and training and educating future scientists and technological leaders.

(b) Each institute shall be created pursuant to a competitive application process conducted by a panel selected by the Governor and administered by the University of California.

(c) In order to utilize the vast array of research and intellectual resources available from throughout the state, each institute may develop programs in cooperation with the private sector and with California's other public and independent colleges and universities.

(d) The concentration of each institute may include, but shall not necessarily be limited to, any of the following:

(1) Medicine.

(2) Bioengineering.

(3) Telecommunications and information systems.

(4) Energy resources.

(5) Space.

(6) Agricultural technology.

(e) Funding for the state's share of operating and facilities costs under this chapter is subject to appropriation in the annual Budget Act.

92901. It is the intent of the Legislature that all of the following occur:

(a) That the University of California receive seventy-five million dollars ($75,000,000) for each year for four years, for a total of three hundred million dollars ($300,000,000) for the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, for capital and operating budget purposes.

(b) That a portion of the funds referenced in subdivision (a) be available, in an amount not to exceed 5 percent of the annual appropriation, for annual operating budget expenditures. At the end of four years, the level of ongoing funding for the operating budget of the institutes will be determined by the Governor and the Legislature through the annual budget process.

(c) That the University of California will not seek further state funding for capital outlay associated with these three institutes beyond that provided within the three hundred million dollar ($300,000,000) total.

(d) Every dollar of state funds appropriated for these institutes shall be matched by at least two dollars ($2) of nonstate funds, including, but not necessarily limited to, federal and private funds.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 2000 with respect to higher education, it is necessary that this act take effect immediately.

CHAPTER 80

An act to add and repeal Article 2.10 (commencing with Section 65891) of Chapter 4 of Division 1 of Title 7 of the Government Code, and to add Chapter 3.7 (commencing with Section 50540) to Part 2 of Division 31 of the Health and Safety Code, relating to balancing jobs and housing.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Article 2.10 (commencing with Section 65891) is added to Chapter 4 of Division 1 of Title 7 of the Government Code, to read:

Article 2.10. Inter-Regional Partnership (IRP) State Pilot Project to Improve the Balance of Jobs and Housing

65891. This article may be cited and shall be known as the Inter-Regional Partnership (IRP) State Pilot Project to Improve the Balance of Jobs and Housing.

65891.1. For the purposes of this article, the following terms have the following meanings:

(a) ''Inter-Regional Partnership'' or ''IRP'' means an organization of elected officials from the Counties of Alameda, Contra Costa, Santa Clara, San Joaquin, and Stanislaus and a number of cities therein, that was formed under the sponsorship of the three regional councils of government, the Association of Bay Area Governments (ABAG), the San Joaquin Council of Governments, and the Stanislaus Council of Governments, that oversee regional land use and transportation planning for the five counties.

(b) ''Incentives'' include, subject to negotiations with appropriate state and local agencies, the following:

(1) Providing tax credit priority for development of multifamily residential construction in areas with job surpluses and for job generating projects in areas with housing surpluses.

(2) Providing a return of property tax for development of affordable housing in areas with job surpluses and for job generating projects in areas with housing surpluses.

(3) Pooling of redevelopment funds.

(4) Tax-increment financing for jobs-housing opportunity zones based on the redevelopment model.

(c) ''Jobs-housing opportunity zone'' means a zone selected by the IRP State Pilot Project for the purpose of mitigating current and future imbalances of jobs and housing in the Counties of Alameda, Contra Costa, Santa Clara, San Joaquin, and Stanislaus that has the following characteristics:

(1) Is no smaller than 50 acres and no larger than 500 acres.

(2) Contains significant portions of land that are vacant, underutilized, and suitable for urban use.

(3) Is created for the purpose of either providing needed workforce housing if there is a surplus of jobs or providing jobs for the area's workers if there is a surplus of housing.

(4) Is eligible to receive incentives, subject to negotiation with appropriate resource agencies.

(5) Is serviced by adequate infrastructure and transit service, or has commitments to provide adequate infrastructure and transit service, to support significant proposed development.

(6) Is intended to support development that will improve the jobs-housing imbalance across the five-county IRP area.

65891.2. It is the intent of the Legislature to establish the Inter-Regional Partnership (IRP) as a state-supported pilot project to test and evaluate a variety of policies and incentives designed to mitigate current and future imbalances of jobs and housing in the Counties of Alameda, Contra Costa, Santa Clara, San Joaquin, and Stanislaus.

65891.3. The Legislature finds and declares all of the following:

(a) California will experience significant population growth in the coming decades. In the San Francisco Bay Area, one million new residents are forecast by the year 2020. An equal number of new jobs are expected during the same time period. However, less than 500,000 new housing units are expected to be built in an already costly and competitive housing market.

(b) Many central valley communities expect to double or triple in size, but most of them will not attract equivalent numbers of new jobs. Instead, thousands of central valley residents are expected to commute far into the bay area, often driving two hours or more each way. The challenges to transportation, air quality, and social quality of life are

enormous. Projections estimate the current number of less than 100,000 daily Altamont Pass commuters will more than double to 250,000 by the year 2020.

(c) These growth-related issues cut across county and regional boundaries. The Inter-Regional Partnership is intended to provide a forum for neighboring jurisdictions governed by different regional councils of government to deal collaboratively with land use, transportation, and air quality issues that affect a five-county region.

(d) The IRP State Pilot Project will stand as an important example for other regions in the state in dealing with multijurisdictional problem solving and addressing land use planning across metropolitan borders.

(e) The need for communication and cooperation among these jurisdictions is underscored by the fact that Alameda County recently sued the City of Tracy in San Joaquin County concerning the environmental impacts of a planned housing development on the western edge of the county where a majority of residents would be assumed to commute into the San Francisco Bay Area through Alameda County.

(f) These interjurisdictional planning issues are not unique to the IRP's five-county area; several other expanding metropolitan areas in California are beginning to experience similar problems. However, the geographic imbalance in housing and job growth in the IRP area is among the country's most extreme examples, and, driven by continued employment growth in the Silicon Valley, is predicted to worsen significantly in the coming years.

(g) The housing market in the Silicon Valley is now the most expensive in the nation. Land being developed for housing in the San Joaquin Valley is some of the highest quality agricultural land in the world.

(h) The IRP area is the best place in the state, and probably one of the best in the country, to implement a pilot program designed to mitigate the myriad of problems associated with unbalanced and uncoordinated growth.

(i) By implementing this pilot program, the state will play an important role in creating a more sustainable future pattern of land use in the IRP area.

(j) Active investment of state resources now in the interregional balancing of jobs and housing opportunities will reduce the need for costly transportation infrastructure investments in the future.

(k) The current path of land development in the five-county area will have very costly transportation and environmental impacts if efforts are not made soon to link job growth to housing production.

65891.4. (a) The Inter-Regional Partnership (IRP) State Pilot Project to Improve the Balance of Jobs and Housing is hereby established.

(b) The Department of Housing and Community Development shall be the state agency responsible for monitoring the IRP State Pilot Project.

(c) The pilot project shall consist of two phases: (1) research and development, as specified in Section 65891.5, and (2) implementation, as specified in Section 65891.7.

65891.5. (a) During the first year after the date that funding is received, the IRP shall complete all the necessary research, outreach, and negotiation to allow the successful establishment of jobs-housing opportunity zones throughout the five IRP counties. At the end of this phase a series of outreach meetings shall be held with local jurisdictions and the public to present the data and recommendations for locations of jobs-housing opportunity zones. Local jurisdictions wishing to participate in the pilot project shall enter into agreements with the IRP to pursue the regional goals and objectives of opportunity zones within their jurisdictions.

(b) The first phase shall provide all of the following:

(1) An integrated Geographic Information System (GIS) enabling easy comparison of data on land use and transportation trends and alternative scenarios across the five-county area. The GIS mapping shall focus on obtaining existing data from a variety of sources and integrating them into a single system to allow accurate analysis and scenario work on an interregional scale. The Legislature finds and declares that the IRP's GIS system will be a crucial tool for use in determining the location of proposed jobs-housing opportunity zones.

(2) General types of data to be assembled in the GIS system shall include:

(A) Demographic data, including population and employment by census tract.

(B) Projected growth data consisting of information on where growth, including jobs generation and new housing location, is predicted to occur over a 20-year period.

(C) Transportation information such as traffic capacity and usage, transit access and usage, and journey-to-work data.

(D) Land use information, including general plan layers and zoning designations. It is the intent of the Legislature that to reduce costs and setup time, the IRP's GIS undertaking shall not include parcel-level data.

(E) Basic environmental data, including floodplains, slopes, and contamination.

(3) A refined description of the incentive program for application to the jobs-housing opportunity zones within the IRP counties. This list

shall include thorough descriptions of fiscal and nonfiscal incentives. A variety of state departments shall be involved in determining what incentives might be made available, including, but not limited to, the Office of Planning and Research, the Department of Housing and Community Development, the California Housing Finance Agency, the Department of Transportation, and the Department of Conservation.

(4) Recommendations for establishing 5 to 10 official Inter-Regional Partnership Jobs-Housing Opportunity Zones located throughout the five-county area. Using the GIS system and meeting with local jurisdictions, the IRP shall propose a series of jobs-housing opportunity zones. Each zone shall have specific goals and a description of the type of action desired to attain these goals, including recommended state sponsored incentives intended to encourage the desired results. The types of incentives requested may vary by zone location and type. Zones located near, or with good transit access to, existing major employment centers may receive incentives designed to promote reasonably priced housing development. Zones located far from existing employment centers, but near, or with good transit access to, significant workforce housing supply, may receive incentives designed to promote employment development.

65891.7. (a) During the second phase of the pilot project, opportunity zones shall be established. Negotiation between the state, the IRP, and local jurisdictions shall result in formal agreements to implement specific jobs-housing opportunity zones.

(b) Results of the second phase shall include:

(1) Final selection of not less than 5 nor more than 10 official IRP Jobs-Housing Opportunity Zones that shall be equitably distributed among each of the five IRP counties.

(2) Reports that include results of GIS analysis and clearly illustrate the benefits of prescribed developments toward creating an interregional jobs-housing balance. Desired outcomes and actions for each zone shall be included in the report.

(3) The IRP shall enter into a memorandum of understanding with each jurisdiction having one or more of the selected zones for the pilot program and with appropriate state agencies outlining outcomes and incentives to be awarded for stated outcomes.

65891.8. (a) The goals of the IRP and the pilot project are to:

(1) Encourage economic investment, including job creation, near available housing.

(2) Encourage housing to be located near major employment centers.

(3) Encourage development along corridors served by transit and near transit stations.

(4) Encourage more sustainable and effective transportation between job and housing centers.

(b) The IRP shall contract with a qualified consultant to conduct an evaluation of the pilot project. Ongoing monitoring and evaluation shall be conducted throughout the implementation of phases one and two. After zones have been selected and projects begin on each of the zones, the progress of each project shall be evaluated. The evaluation shall assess the gap between jobs and housing by comparing the ratio between the number of jobs and the number of housing units in a local jurisdiction with a designated IRP Jobs-Housing Opportunity Zone, before an opportunity zone project has been approved and after it has been completed. The comparison shall be based on an optimum balance of jobs and housing being one and one-half jobs for one housing unit, as determined by the Department of Finance. The following data shall be used in determining that a jobs-housing balance has been mitigated in a jurisdiction:

(1) The number of building permits issued as provided by the California Industrial Research Bureau.

(2) The number of jobs generated, as determined by the Employment Development Department.

A final report shall be submitted by the IRP to the Department of Housing and Community Development on or before July 31, 2004.

65891.9. Funding for the IRP State Pilot Project shall be provided in the 2000–01 Budget Act. The IRP State Pilot Project shall begin on January 1, 2001.

65891.10. No local jurisdiction shall be required to participate in the pilot project. This article shall have no fiscal impact on any local jurisdiction.

65891.11. This article shall become inoperative on July 31, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Chapter 3.7 (commencing with Section 50540) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.7. THE JOBS-HOUSING BALANCE IMPROVEMENT PROGRAM

50540. This chapter shall be known and may be cited as the Jobs-Housing Balance Improvement Program.

50541. The Legislature finds and declares all of the following:

(a) Despite strong economic growth and record-level unemployment in most areas of the state, California has fallen seriously short of its policy of providing every California family with the opportunity to live in decent, affordable housing in a suitable living environment.

(b) The Department of Finance estimates that to meet California's housing need, 230,000 new residential units per year must be built.

(c) For each of the last eight years, California has produced only 50 percent of the housing to meet its need, resulting in a critical accumulated deficit.

(d) Although the lack of sufficient housing is a statewide problem cutting across all geographic areas and income categories, it is most severe in strong economic job center markets where high housing costs make it extremely difficult for working-class Californians to afford a home.

(e) Increasingly, due to high housing costs and constraints on regulatory development policy, California workers are forced to seek homeownership opportunities further and further away from their places of employment.

(f) Conversely, many communities where land is more available and less expensive are located long distances from high-growth job centers. Those developments are occupied predominantly by commuters who travel long distances outside of the communities in which they live and inflate the price of housing.

(g) The exportation of housing demand to outlying areas, including agricultural areas, carries with it definite environmental and quality of life consequences.

(h) Throughout the state, major investments have been, and are being made, in public transit infrastructure. The use of this infrastructure depends on local decisions about the location of jobs and housing to better manage traffic flow and to direct new development and fiscal resources to revive existing urban centers, especially central business districts and infill sites.

(i) Ensuring that transit facilities are surrounded by compact, mixed-use development is a key to increasing transit ridership and reducing reliance on the automobile for all trips. However, neighborhood concerns, complex ownership issues, and local government preference for major sales tax generators make the planning and environmental clearance process for transit-oriented communities very expensive and time-consuming. Investment in pedestrian-friendly, compact transit-village development will reduce long-term infrastructure costs associated with accommodating new highways and roadways.

(j) The failure to provide California's growing workforce an affordable place to live close to one's place of employment is viewed by business, environmental, civic, and labor leaders as a serious threat to sustaining long-term economic prosperity and environmental quality.

(k) Communities need effective tools to promote and reward development in job centers of the state, to reward the development of affordable infill housing as well as mixed-use development that includes

housing close to transit, within urbanized areas, and to attract and add employment to areas that lack a sufficient employment base.

50542. It is the intent of the Legislature in enacting this chapter:

(a) To develop an incentive-based strategy to encourage the construction of housing in those areas of the state that over the last decade have experienced the greatest increase in job growth but have not kept pace with necessary housing. This may include the construction of infill housing and transit-oriented development that includes housing, within existing urbanized areas.

(b) To attract new business and new jobs to areas that lack a sufficient employment base in relation to the housing they already provide.

(c) To provide local governments with state funding to reward the approval and construction of housing, particularly housing for California's working class, in strategically defined areas.

50543. (a) Five million dollars ($5,000,000) of the funds appropriated for purposes of this chapter in Item 2240-114-0001 of Budget Act of 2000 shall be used pursuant to subdivisions (b) and (c).

(b) The department shall provide state grants to local agencies to assist them in attracting new business and jobs in ''housing rich'' communities that lack an adequate employment base to match the amount and cost of housing in those communities.

(c) A local agency that has completed an economic development strategic plan may apply for a grant to create an economic development strike team to assist the local agency in better targeting and coordinating outreach to employers who may choose to locate jobs within the community.

(d) In order to be eligible for a grant pursuant to this section, a local agency shall have an adopted housing element that the department has determined pursuant to Section 65585 of the Government Code to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(e) The department shall establish maximum grant amounts and establish an appropriate process for evaluating need and making grant awards.

(f) No later than December 31, 2002, the department shall provide an interim report to the Legislature indicating the progress of the program established by this section, including the number of jurisdictions accessing the program. No later than December 31, 2005, the department shall provide a final report with updates to the data contained in the interim report and a description of the achievements by local agencies participating in the program.

50544. (a) One hundred million dollars ($100,000,000) of the funds appropriated for purposes of this chapter in Item 2240-114-0001

of the Budget Act of 2000 shall be used to award incentive grants to cities, counties, and city and counties to be used for capital outlay projects, as defined by Section 7914 of the Government Code, that serve to benefit the community. Eligible projects include, but are not limited to, traffic improvements, neighborhood parks, bike paths, libraries, school facilities, play areas, community centers, and police and fire stations. Grants shall be provided through a grant agreement that requires the recipient to provide to the department a report on the number of residential building permits issued during the reporting period, the number of certificates of occupancy issued for those units, and the amenities purchased or built.

(b) To be eligible for a grant pursuant to this section, a local government shall do both of the following:

(1) By the end of the calendar year in which unit production is to be counted, have an adopted housing element that the department has determined pursuant to Section 65585 of the Government Code to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(2) Have a demonstrable and significant increase in the issuance of residential building permits issued between January 1, 2001, and December 31, 2001, over the average number of building permits issued annually for the most recent 36-month period that can be calculated prior to January 1, 2001. The department shall establish a benchmark level to be achieved in order to establish eligibility for funding based on criteria including a survey of economic forecasts to be conducted by the Department of Finance no later than November 30, 2000.

(c) Grant amounts shall be determined as a per-unit incentive weighted for high, medium, and low employment demand areas. In addition, the department shall provide additional incentives for units in projects within eligible communities that meet criteria designed to encourage planning priorities such as affordability, multifamily housing, and infill development. The department shall establish the definitions and measurement specifications for the incentive criteria to be used to determine grant amounts that are easily and objectively verifiable.

(d) Funding shall be provided as soon after January 1, 2002, as is reasonably possible, allowing time for receipt by the Department of Finance of year-end production figures as well as other information necessary to apply the established criteria. If all funds are not expended after the end of the first calendar year in which housing production is counted, the department may continue the program into the following year if it determines there are adequate funds to administer the program. If residential production within eligible jurisdictions exceeds the

department's projections, per-unit incentives shall be prorated within the appropriated funding amount.

(e) The department shall solicit and consider comments from interested parties on the criteria that shall be used for determining the amount of funds granted per unit. The department may deny funding to any jurisdiction that it determines, based on reasonable evidence, failed to issue residential building permits on a timely basis between the effective date of this chapter and January 1, 2001.

(f) No later than December 31, 2002, the department shall provide an interim report to the Legislature indicating the benchmark levels of production established, the number of jurisdictions accessing the program, the number of residential units building permits issued above the established benchmark, and the success of the additional incentives in achieving state housing policies. No later than December 31, 2005, the department shall provide a final report with updates to the data contained in the interim report and a description of the capital outlay projects achieved by local governments through the program and information regarding the number of certificates of occupancy issued in relation to the residential building permits issued.

50545. Five million dollars ($5,000,000) of the funds appropriated for the purposes of this chapter in Item 2240-114-0001 of the Budget Act of 2000 shall be transferred to the Rental Housing Construction Fund created pursuant to Section 50740 to be used for urban predevelopment loans pursuant to Chapter 3.5 (commencing with Section 50530), subject to the following provisions:

(a) All projects shall be located within one-half mile of an existing or planned transit station proposed for development. For these purposes, a transit station is a site where two or more mass transit modes, or one transit mode with three or more mass transit lines, are accessible to the public.

(b) Notwithstanding any other provision of law, the department may establish interest rates between 3 and 7 percent based on the department's analysis of project need.

(c) The limitation specified in subdivision (a) of Section 50532 shall not apply to this appropriation.

(d) In addition to the activities eligible under the Urban Predevelopment Loan Program, funds awarded pursuant to this section may be used for master environmental impact reports or other environmental documents that would access potential impacts in advance and propose measures to mitigate negative impacts.

(e) Awards made pursuant to this section shall require a 50 percent match from the local agency in which the site is located.

(f) In addition to those eligible sponsors specified in subdivision (e) of Section 50530, eligible sponsors shall include limited liability

corporations and limited partnerships where all managing members or general partners are nonprofit organizations.

50546. The administrative expenses of the department shall not exceed 3 percent of the amount available for the purposes of this chapter.

CHAPTER 81

An act to add Chapter 11 (commencing with Section 51500) to Part 3 of Division 31 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Chapter 11 (commencing with Section 51500) is added to Part 3 of Division 31 of the Health and Safety Code, to read:

CHAPTER 11. CALIFORNIA HOMEBUYER'S DOWNPAYMENT ASSISTANCE PROGRAM

51500. This chapter shall be known and may be cited as the California Homebuyer's Downpayment Assistance Program.

51501. The Legislature finds and declares all of the following:

(a) There is a continuing and urgent need to provide affordable mortgage financing to meet the increasingly unfulfilled housing needs of citizens of this state.

(b) The high cost of housing impedes the ability of California employers to compete in the national marketplace for employees.

(c) Affordable housing enhances the quality of life for California residents and provides fuel for the state's economic engine.

(d) Housing is a critical component of the California economy, both as an income producing sector and a principal factor in economic development.

(e) California's housing crisis severely impacts families struggling to provide safe, stable homes for their children to grow and learn and the workers who are the backbone of many of the state's most important industries.

(f) The percentage of Californians able to purchase their own homes continues to decline, even as that percentage climbs for the rest of the nation.

(g) Therefore, this chapter is enacted to make existing financing for residential mortgages more affordable to California's homebuyers.

51502. The purpose of the California Homebuyer's Downpayment Assistance Program is to assist first-time low- and moderate-income homebuyers utilizing existing mortgage financing.

51504. (a) The agency shall administer a downpayment assistance program that includes, but is not limited to, all of the following:

(b) Downpayment assistance shall include, but not be limited to, a deferred-payment, low-interest, junior mortgage loan to reduce the principal and interest payments and make financing affordable to first-time low- and moderate-income homebuyers.

(c) The amount of downpayment assistance shall not exceed 3 percent of the home sales price.

(d) The amount of downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(e) The amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(f) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

51506. The downpayment assistance provided by this program shall be limited to first-time homebuyers.

51510. The agency shall have all the powers conferred upon it by this part (commencing with Section 50900) in administering this chapter.

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 increase the availability of funds for downpayment assistance in order to increase the utilization of existing mortgage financing as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 82

An act to add Chapter 8 (commencing with Section 17998) to Part 1.5 of Division 13 of the Health and Safety Code, relating to housing.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Chapter 8 (commencing with Section 17998) is added to Part 1.5 of Division 13 of the Health and Safety Code, to read:

CHAPTER 8. CODE ENFORCEMENT INCENTIVE PROGRAM

17998. The Legislature finds and declares all of the following:

(a) The Department of Housing and Community Development reports that one in every eight dwelling units in the state is substandard and that unless health and safety problems are corrected, habitability conditions generally deteriorate until the units become life threatening and uninhabitable and must be removed from the housing stock through closure or demolition.

(b) California is experiencing a housing shortage of significant proportions, particularly in the affordable housing sector. The state and many local governments are funding affordable housing from a variety of sources at substantial costs. It is ill advised to neglect timely code enforcement responsibilities and thus lose housing that could have been retained.

(c) The lack of code enforcement on a single dwelling unit can lead to the deterioration of an entire neighborhood: the substandard or abandoned unit becomes a magnet for crime, vandalism, fires, and other activities that rapidly infect the surrounding homes and neighborhood.

(d) Many local governments endeavor to fulfill their statutory responsibility for code enforcement. However, local governments with a higher percentage of lower income households with families, living in older, overcrowded housing stock, exacerbated by the neglect of absentee slumlords, bear a disproportionate code enforcement cost and responsibility than that of more affluent communities.

(e) Existing law provides building standards to assure decent, safe, and sanitary housing for all Californians.

(f) Resources for code enforcement at the local level are frequently allocated to code enforcement activities, which generate fees to pay for regulatory services, including building and permit inspections.

(g) The enforcement of building codes for existing housing is frequently performed only on a complaint-by-complaint basis and

frequently there is insufficient funding for the abatement of existing violations.

17998.1. The Department of Housing and Community Development, upon appropriation by the Legislature for this purpose, shall make funds available as matching grants to cities, counties, and cities and counties to increase staffing dedicated to local building code enforcement efforts. The funds shall be subject to all of the following provisions:

(a) Grants shall be made for a three-year period.

(b) The city, county, or city and county shall provide a local match of 25 percent in the first year, 50 percent in the second year, and 75 percent in the third year.

(c) The maximum grant to a single recipient shall not exceed one million dollars ($1,000,000).

(d) Funds may be used to supplement, but shall not supplant, existing local funding for code enforcement.

(e) On or before June 1, 2003, grant recipients shall submit a report to their local legislative bodies and to the department regarding the results of their expanded code enforcement efforts. The department shall summarize the results and transmit the reports to the Legislature by December 31, 2003.

(f) The department may use up to 5 percent of the funds appropriated by the Legislative for administering the grants during the three-year period.

(g) The department shall award the grants on a competitive basis with criteria to be established and specified in a ''Notice of Funding Availability.'' The criteria shall be weighted for local government applicants with high percentages of lower income households, with older, overcrowded housing stock and absentee owners. The criteria shall also be weighted for applications that propose to identify and prosecute owners with habitual, repeated, multiple code violations that have remained unabated beyond the period required for abatement. Grants awarded pursuant to this chapter shall not be subject to the requirements of Chapter 2.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

CHAPTER 83

An act to add Chapter 18 (commencing with Section 50898) to Part 2 of Division 31 of the Health and Safety Code, relating to housing and community development.

[Approved by Governor July 5, 2000. Filed with
Secretary of State July 5, 2000.]

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

SECTION 1. Chapter 18 (commencing with Section 50898) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 18. DOWNTOWN REBOUND PROGRAM

50898. The Legislature finds and declares all of the following:

(a) As California moves into the next century, revitalization of our downtown areas is of vital importance to every community in our state.

(b) Downtown areas generally represent urban cores that are deficient in housing that is critical to revitalization.

(c) Providing additional housing in downtown areas will allow workers to live closer to their place of employment and minimize the number of workers commuting from other areas.

(d) Downtown areas frequently have many older, underutilized commercial buildings that are well suited for residential, live-work, and mixed residential and commercial use.

(e) The development of projects that are in close proximity to transit corridors allows the workforce to use mass transit to commute to work and minimizes the use of private vehicles, easing traffic congestion and wear on our highways, and serves to improve air quality.

50898.1. (a) With the exception of funds allocated for purposes of subdivision (b), funds appropriated for the purposes of this chapter shall be distributed by the department pursuant to Chapter 6.7 (commencing with Section 50675) of Part 2, and shall be used for downtown rebound projects to promote sustainable communities. These projects shall include residential infill projects, the adaptive reuse of vacant or underused commercial or industrial structures, and the development of higher density housing adjacent to existing or planned mass transit stations, as follows:

(1) Development projects in which vacant sites, or sites that are scheduled to become vacant, and are located within an established developed area of a community, are used for multifamily rental housing in conjunction with higher densities and flexible development standards that demonstrably reduce infrastructure costs and environmental consequences.

(2) Development projects rehabilitating existing commercial or industrial buildings that are at least 30 percent vacant that will result in at least 40 percent of the building floor area being used for residential dwelling units, live-work units, or both.

(3) Rental housing developments located within one-quarter mile of an existing or planned major transit node that are developed at a density level that meets or exceeds density standards to be developed by the department. A major transit node is a site where two or more mass transit modes, or one transit mode with three or more mass transit lines, are accessible to the public. Priority shall be given to projects developed within walking distance of schools, major employment centers, or public amenities, including shopping, parks, and major entertainment venues.

(b) Funds allocated for purposes of this subdivision shall be used for planning grants to local governments for either of the following purposes:

(1) Facilitating infill housing through developing site inventories, project specific feasibility studies, and strategic action plans to remove barriers and promote infill housing, mixed-use developments, and transit corridor development.

(2) Facilitating updates of general plans and zoning ordinances to encourage adaptive reuse, higher density residential development, mixed-use development, and residential development located within walking distance of schools, shopping, transit nodes, and major employment centers.

(3) Assisting owners of qualified buildings in obtaining seismic and structural feasibility studies specifically related to the purpose of adaptive reuse.

50898.2. (a) Funds awarded pursuant to Item 2240-107-0001 of Section 2.00 of the Budget Act of 2000 for the purposes of the Downtown Rebound Program established pursuant to this chapter shall not be subject to the requirements of Chapter 2.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(b) The department may use up to 5 percent of the amounts appropriated for this program for administration.

(c) With respect to the appropriation in Item 2240-107-0001 of Section 2.00 of the Budget Act of 2000 for the Downtown Rebound Program established pursuant to this chapter, the following provisions shall apply:

(1) Seventy-six percent of that appropriation shall be used by the department for the purpose of making loans to project sponsors for the adaptive reuse of vacant or underused commercial or industrial structures into residential rental housing units for initial rental to households having an income not exceeding 150 percent of the area median income, subject to the following restrictions:

(A) Loans for units not subject to subparagraph (D) shall be at 5 percent simple interest. Loans for units subject to subparagraph (D) shall

be at 3 percent simple interest. All principal and interest shall be due and payable in 20 years.

(B) Assistance for units not subject to subparagraph (D) shall not exceed twenty thousand dollars ($20,000) per unit. Assistance for units subject to subparagraph (D) shall not exceed forty thousand dollars ($40,000) per unit.

(C) The amount of the loan, in combination with all debt recorded in a senior position to the loan, shall not exceed 90 percent of the appraised after-rehabilitation value of the security for the loan.

(D) Twenty percent of the units in the project shall be reserved for households having an income equal to 50 percent or less of the area median income, or 40 percent of the units shall be reserved for households having an income equal to 60 percent or less of the area median income. The department shall ensure the continued affordability of all units designated by the sponsor to fulfill these requirements for a period of 20 years. However, notwithstanding subparagraph (A), if assistance is provided for these units through any program funded through Chapter 6.7 (commencing with Section 50675) of Part 2, the units shall be subject to the use restrictions, limitations, and provisions contained in that chapter. These units shall be reasonably distributed within each building contained in the project, with no less than 10 percent of the units in each building fulfilling the requirements of this subdivision.

(2) Two million four hundred thousand dollars ($2,400,000) of that appropriation shall be used by the department for planning grants as specified in subdivision (b) of Section 50898.1.

(3) The balance of that appropriation shall be available for uses authorized by subdivision (a) of Section 50898.1.

CHAPTER 84

An act to amend Sections 50840, 50841, and 50842 of, and to add Chapter 6 (commencing with Section 50650) to, and to repeal Chapter 3.6 (commencing with Section 50533) of, Part 2 of Division 31 of, the Health and Safety Code, relating to housing, making an appropriation therefor.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Chapter 3.6 (commencing with Section 50533) of Part 2 of Division 31 of the Health and Safety Code is repealed.

SEC. 2. Chapter 6 (commencing with Section 50650) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 6. CALHOME PROGRAM

50650. The Legislature finds and declares as follows:

(a) An adequate supply of safe and affordable housing is the foundation for strong and sustainable communities. Owner occupied housing is a key housing resource, contributing to neighborhood stability as well as economic vitality.

(b) In California, homeownership is beyond the reach of a large segment of the population. There are also many homeowners who lack the resources to make necessary repairs to their homes, or who would welcome the opportunity to share them with suitable tenants.

(c) Reflecting California's diversity, there is a variety of proven approaches to the promotion of homeownership within the state. The purpose of the CalHome Program established by this chapter is to support existing homeownership programs aimed at lower and very low income households and operated by private nonprofit and local government agencies, and thereby to increase homeownership, encourage neighborhood revitalization and sustainable development, and maximize use of existing homes.

(d) The CalHome Program is intended to take the place of the Senior Citizens' Shared Housing Program established by Chapter 3.6 (commencing with Section 50533), which is repealed by the act enacting this chapter.

50650.1. This chapter shall be known and may be cited as the CalHome Program.

50650.2. The department shall administer this chapter.

50650.3. (a) Funds appropriated for purposes of this chapter shall be used to enable low- and very low income households to become or remain homeowners. Funds shall be provided by the department to local public agencies or nonprofit corporations as either of the following:

(1) Grants for programs that assist individual households.

(2) Loans that assist development projects involving multiple homeownership units, including single-family subdivisions.

(b) Grant funds may be used for first-time homebuyer downpayment assistance, home rehabilitation, homebuyer counseling, home acquisition and rehabilitation, or self-help mortgage assistance programs, or for technical assistance for self-help and shared housing

homeownership. Loan funds may be used for purchase of real property, site development, predevelopment, and construction period expenses incurred on homeownership development projects, and permanent financing for mutual housing or cooperative developments. Upon completion of construction, the department may convert project loans into grants for programs of assistance to individual homeowners. Financial assistance provided to individual households shall be in the form of deferred payment loans, repayable upon sale or transfer of the homes, when they cease to be owner-occupied, or upon the loan maturity date. All loan repayments shall be used for activities allowed under this section, and shall be governed by a reuse plan approved by the department. Those reuse plans may provide for loan servicing by the grant recipient or a third-party local government agency or nonprofit corporation.

50650.4. To be eligible to receive a grant or loan, local public agencies or nonprofit corporations shall demonstrate sufficient organizational stability and capacity to carry out the activity for which they are requesting funds, including, where applicable, the capacity to manage a portfolio of individual loans over an extended time period. Capacity may be demonstrated by substantial successful experience performing similar activities, or through other means acceptable to the department. In allocating funds, the department shall utilize a competitive application process, using weighted evaluation criteria, including, but not limited to, (a) the extent that the program or project utilizes volunteer or self-help labor, trains youth in construction skills, or involves community participation, and (b) whether the program or project contributes toward community revitalization. To the extent feasible, the application process shall ensure a reasonable geographic distribution of funds.

50650.5. For the purposes of this chapter, mutual housing and cooperative housing shall be deemed to be forms of homeownership. For these project types: (a) program funds shall be used for project development costs only; (b) the department shall enter into a regulatory agreement limiting occupant incomes, occupancy charges, and share purchase terms for 55 years; and (c) notwithstanding Section 50650.3, program assistance shall be provided in the form of a deferred payment loan.

50650.6. The department may use up to 5 percent of the funds appropriated for the purposes of this chapter for its costs in administering the program.

50650.7. For appropriations of fifteen million dollars ($15,000,000) or less, the department may administer the funds using guidelines that shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the

Government Code). If an appropriation exceeds that amount, the department may administer the funds using guidelines for 24 months, during which time those guidelines shall not be subject to the Administrative Procedure Act. The guidelines and any regulations governing the CalHome Program shall include, among other things, loan terms and limits, underwriting standards, home price limits, application procedures and selection criteria, loan and grant documentation requirements, and monitoring requirements.

SEC. 3. Section 50840 of the Health and Safety Code is amended to read:

50840. (a) The Legislature hereby finds and declares all of the following:

(1) California is experiencing a severe housing shortage that compounds itself further each year. While it is estimated that 250,000 new homes are needed each year to keep up with demand, only 140,000 building permits for new residential housing were issued in 1999. Moreover, the average number of residential building permits issued over the last seven years is only 105,000 new units per year.

(2) The shortage in housing supply has led to skyrocketing home sale and rental prices, which have made housing unaffordable to many Californians. Seven of the nation's 10 least affordable metropolitan areas for housing are in California. More than 35 percent of renter households experience an extreme housing cost burden, which has been defined as paying more than 50 percent of their income for housing.

(3) Long-term strategies are needed to address this ongoing deficit in new home production and to meet the state's housing needs.

(4) In addition to helping meet the immediate need for housing, the state will always have a role to play in assisting in the provision of housing for families unable to afford market-rate rents.

(5) A permanent source of financing is needed to fulfill this ongoing need for state housing assistance.

(6) A housing trust fund would provide a permanent source of financing to be used solely to fund housing programs that serve low- and very low income households.

(b) (1) It is the intent of the Legislature that the principal in the California Housing Trust Fund shall not be spent, but rather invested as an endowment, and that the return on this investment be used to fund programs that meet the housing needs of lower and very low income households.

(2) It is the intent of the Legislature to make a significant appropriation to the California Housing Trust Fund in the 2001–02 fiscal year to ensure that there are sufficient ongoing resources to provide for the housing needs of lower income households.

SEC. 4. Section 50841 of the Health and Safety Code is amended to read:

50841. (a) There is hereby created in the State Treasury the California Housing Trust Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated for the purposes of investment in a manner calculated to deliver the greatest rate of return consistent with the requirements of Section 16430 of the Government Code.

(b) All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Except as provided in Section 50842, no money in the fund shall be spent, loaned, transferred, or otherwise removed from the fund.

SEC. 5. Section 50842 of the Health and Safety Code is amended to read:

50842. (a) All interest or other increment resulting from any investment of money in the California Housing Trust Fund may only be expended, upon appropriation by the Legislature, after allocation to the Treasurer of an amount not to exceed one-half of 1 percent of any interest and other increment to cover the actual cost of administering those investments, for housing programs or those portions of housing programs authorized by law that serve lower and very low income households, as defined in Sections 50079.5 and 50105, respectively.

(b) Not less than 20 percent of any interest or other increment appropriated by the Legislature in any fiscal year from the California Housing Trust Fund shall be expended in rural areas, as defined by Section 50199.21.

(c) Any interest or other increment not appropriated by the Legislature for the purpose described in subdivision (a) in the fiscal year succeeding its accrual shall be deposited in the California Housing Trust Fund and shall no longer be deemed interest or other increment for the purposes of this section.

CHAPTER 85

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 July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. (a) The sum of two million nine thousand thirty-one dollars and forty-seven cents ($2,009,031.47) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the State Board of Control to pay claims accepted by the State Board of Control in accordance with the schedule set forth in subdivision (b). Those payments shall be made from the funds and accounts identified in that schedule. In the case of Budget Act item schedules identified in the schedule set forth in subdivision (b), those payments shall be made from the funds appropriated in the item schedule.

(b) Pursuant to subdivision (a), claims accepted by the State Board of Control shall be paid in accordance with the following schedule:

Total for Fund: Bank and Corporation Tax Fund (0084)	$8,321.65
Total for Fund: Delta Dental Refund Account (0942) (sub 142)	$54.05
Total for Fund: Unemployment Compensation Disability Fund (0588)	$1,888.00
Total for Fund: Employment Development Contingent Fund (0185)	$660.42
Total for Fund: Federal Trust Fund (0890)	$750.47
Total for Fund: General Fund (0001)	$170,327.74
Total for Fund: Hazardous Waste Control Account (0014)	$147.00
Total for Fund: Health Care Deposit Fund (0912)	$6,237.34
Total for Fund: Tax Relief and Refund Account (0027)	$99.45
Total for Fund: Item 0160–001–0001(a), Budget Act of 2000	$508.00
Total for Fund: Item 0690–001–0001, Budget Act of 2000	$63.55
Total for Fund: Item 0690–001–0001(c), Budget Act of 2000	$500.00
Total for Fund: Item 0820–001–0001, Budget Act of 2000	$11.40
Total for Fund: Item 0820–001–0001(1), Budget Act of 2000	$664.24
Total for Fund: Item 0845–001–0217, Budget Act of 1998	$221,059.89

Total for Fund: Item 0860–001–0001(b), Budget Act of 2000	$2,606.51
Total for Fund: Item 0890–001–0228, Budget Act of 2000	$21.50
Total for Fund: Item 1260–001–0741(a), Budget Act of 2000	$66.32
Total for Fund: Item 2180–001–0067(c), Budget Act of 2000	$69.60
Total for Fund: Item 2660–001–0042(b), Budget Act of 2000	$116,722.67
Total for Fund: Item 2660–001–0042(b), Budget Act of 2000	$556.00
Total for Fund: Item 2660–001–0042(b), Budget Act of 2000	$745,832.14
Total for Fund: Item 2660–001–0042(j), Budget Act of 2000	$1,112.00
Total for Fund: Item 2720–001–0044(a), Budget Act of 2000	$70.00
Total for Fund: Item 2720–001–0044(a), Budget Act of 2000	$25,445.01
Total for Fund: Item 2740–001–0044(a), Budget Act of 2000	$637.00
Total for Fund: Item 2740–001–0044(a), Budget Act of 2000	$72.21
Total for Fund: Item 3360–001–0465(c), Budget Act of 2000	$127.00
Total for Fund: Item 3540–001–0001(a), Budget Act of 2000	$250.00
Total for Fund: Item 3600–001–0200(c), Budget Act of 2000	$27,500.00
Total for Fund: Item 3600–001–0200(d), Budget Act of 2000	$1,400.18
Total for Fund: Item 3600–001–0200(f), Budget Act of 2000	$635.00
Total for Fund: Item 3790–001–0392(a), Budget Act of 2000	$500.00
Total for Fund: Item 3790–001–0392(a), Budget Act of 2000	$2,025.12
Total for Fund: Item 3860–001–0001(a), Budget Act of 2000	$1,650.28

Total for Fund: Item 3860–001–0001(e), Budget Act of 2000	$414.00
Total for Fund: Item 3900–001–0044(a), Budget Act of 2000	$11,258.00
Total for Fund: Item 3960–001–0014(a), Budget Act of 2000	$250.00
Total for Fund: Item 4260–001–0001(2), Budget Act of 2000	$308.59
Total for Fund: Item 4300–003–0001(a), Budget Act of 2000	$479.72
Total for Fund: Item 4300–003–0001(a), Budget Act of 2000	$2,471.43
Total for Fund: Item 4440–011–0001(a), Budget Act of 2000	$556.00
Total for Fund: Item 4440–011–0001(b), Budget Act of 2000	$5,639.84
Total for Fund: Item 4700–001–0890(a), Budget Act of 2000	$438.09
Total for Fund: Item 5100–001–0870(b), Budget Act of 1998	$967.00
Total for Fund: Item 5100–001–0870(b), Budget Act of 1999	$1,391.00
Total for Fund: Item 5100–100–0871(a), Budget Act of 1999	$460.00
Total for Fund: Item 5160–001–0001(a), Budget Act of 2000	$4,493.06
Total for Fund: Item 5180–001–0001(c), Budget Act of 2000	$150.00
Total for Fund: Item 5240–001–0001(a), Budget Act of 2000	$1,593.00
Total for Fund: Item 5240–001–0001(a), Budget Act of 2000	$1,000.00
Total for Fund: Item 5240–001–0001(a), Budget Act of 1999	$36,956.92
Total for Fund: Item 5240–001–0001(a), Budget Act of 2000	$47,932.94
Total for Fund: Item 5240–001–0001(b), Budget Act of 2000	$173,844.83
Total for Fund: Item 5240–001–0001(b), Budget Act of 2000	$43,500.60

Total for Fund: Item 5240–001–0001(c), Budget Act of 2000	$1,412.00
Total for Fund: Item 5240–001–0001, Budget Act of 2000	$792.92
Total for Fund: Item 5240–001–0001(b), Budget Act of 2000	$1,960.90
Total for Fund: Item 5460–001–0001, Budget Act of 1998	$5,010.42
Total for Fund: Item 5460–001–0001(a), Budget Act of 2000	$164.00
Total for Fund: Item 6110–001–0001(b), Budget Act of 2000	$508.00
Total for Fund: Item 6120–011–0001(a), Budget Act of 2000	$1,494.05
Total for Fund: Item 8260–101–0001, Budget Act of 2000	$16,470.00
Total for Fund: Item 8350–001–0001(3), Budget Act of 2000	$497.50
Total for Fund: Item 8350–001–0001(40), Budget Act of 2000	$290.80
Total for Fund: Item 8380–001–0001(f), Budget Act of 2000	$50.19
Total for Fund: Item 8500–001–0152(a), Budget Act of 2000	$65.94
Total for Fund: Item 8700–001–0001(e), Budget Act of 2000	$288.25
Total for Fund: Item 8955–001–0001(b), Budget Act of 2000	$407.13
Total for Fund: Item 8965–001–0001(a), Budget Act of 2000	$14,272.77
Total for Fund: Motor Vehicle Fuel Account (0061)	$8,629.21
Total for Fund: Parks and Recreation Fund (0392)	$1,700.00
Total for Fund: Public Employees' Health Care Fund (0822)	$321.60
Total for Fund: California Residential Earthquake Recovery Fund (0285)	$281.68
Total for Fund: Retail Sales Tax Fund (0094)	$17,720.79

Total for Fund: Special Deposit Fund, Department of Social Services (0942)	$153.00
Total for Fund: Special Deposit Fund, Housing and Community Development (0942)	$62.00
Total for Fund: Special Deposit Fund, State Controllers (0942)	$6,185.00
Total for Fund: Special Deposit Fund, University of California (0942)	$4,560.89
Total for Fund: State Payroll Revolving Fund (0675)	$2,642.38
Total for Fund: Tax Relief and Refund Account (0027)	$89,324.14
Total for Fund: Tax Relief and Refund Account (0027)	$639.01
Total for Fund: Transportation Fund, State Highway Account (0040)	$304.80
Total for Fund: Unclaimed Property Fund (0970)	$149,057.64
Total for Fund: Unemployment Administration Fund (0870)	$127.00
Total for Fund: Unemployment Administration Fund (0870)	$750.00
Total for Fund: Unemployment Compensation Disability Fund (0588)	$2,856.00
Total for Fund: Unemployment Fund (0871)	$6,984.00
Total for Fund: Water Resources Development Bond Fund (0502)	$83.00
Total for Fund: Welfare Advance Fund (0579)	$267.70

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 86

An act to amend Sections 4733 and 6489 of the Health and Safety Code, relating to water.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 4733 of the Health and Safety Code is amended to read:

4733. (a) The district board may fix the amount of compensation per meeting to be paid each member of the board for services for each meeting attended by the member. Subject to subdivision (b), the compensation shall not exceed one hundred dollars ($100) for each meeting of the district board attended by the member or for each day's service rendered as a member by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by the district board members above the amount of one hundred dollars ($100) per day.

SEC. 2. Section 6489 of the Health and Safety Code is amended to read:

6489. (a) Subject to subdivision (b), each of the members of the board shall receive compensation in an amount not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by board members above the amount of one hundred dollars ($100) per day.

(c) The secretary of the sanitary board shall receive compensation to be set by the sanitary district board, which compensation shall be in lieu of any other compensation to which he or she may be entitled by reason of attendance at the meeting or meetings of the sanitary board.

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CHAPTER 87

An act to add Sections 2801, 2811, and 2815 to the Fish and Game Code, to amend Section 1091.5 of, and to add Sections 11361 and 12805.1 to, the Government Code, and to amend Section 2773.2 of the Public Resources Code, relating to the environment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 2801 is added to the Fish and Game Code, to read:

2801. The Legislature finds and declares all of the following:

(a) The continuing population growth in California will result in increasing demands for dwindling natural resources and will result in the continuing decline of the state's wildlife.

(b) There is a need for broad-based planning to provide for effective protection and conservation of the state's wildlife heritage while continuing to allow appropriate development and growth.

(c) Natural community conservation planning is an effective tool in protecting California's natural diversity while reducing conflicts between protection of the state's wildlife heritage and reasonable use of natural resources for economic development.

(d) Natural community conservation planning promotes coordination and cooperation among public agencies, landowners, and other private interests, provides a mechanism by which landowners and development proponents can effectively participate in the resource conservation planning process, provides a regional planning focus that can effectively address cumulative impact concerns, minimizes wildlife habitat fragmentation, promotes multispecies management and conservation, provides an option for identifying and ensuring appropriate mitigation for impacts of fish and wildlife, and promotes the conservation of broad-based natural communities and species diversity.

(e) Natural community conservation planning can provide for efficient use and protection of natural and economic resources while also promoting greater sensitivity to important elements of the state's critical natural diversity.

(f) Natural community conservation planning is an effective planning process that can facilitate early coordination to protect the interests of the state, the federal government, local public agencies, landowners, and other private parties.

(g) Natural community conservation planning is a mechanism that can provide an early planning framework for proposed development projects within the planning area in order to avoid, minimize, and compensate for impacts on wildlife caused by development and growth.

(h) Natural community conservation planning is consistent with, and will support, the fish and wildlife management activities of the department in its role as the trustee for fish and wildlife within the state.

(i) The purpose of natural community conservation planning is to sustain and restore those species and habitat identified by the department that are necessary to maintain the continued viability of biological communities that are impacted by growth and development.

SEC. 2. Section 2811 is added to the Fish and Game Code, to read:

2811. (a) Any planning agreement entered into by the department and plan participants pursuant to Section 2810 shall establish a process for all of the following:

(1) The collection of data, information, and independent scientific input to assist the department and plan participants in meeting scientifically sound principles for the conservation and management of species proposed to be covered in the plan.

(2) The inclusion of independent scientific analysis in the preparation and development of a natural community conservation plan.

(3) The designation of independent scientists to propose conservation criteria or guidelines early in the planning process for consideration by the department and plan participants to assist in providing a general biological context and the scientific premises for conservation planning and for use and application in the subregional or subarea plan level.

(b) This section applies only to planning agreements entered into by the department pursuant to Section 2810 on or after the effective date of this section, and shall not apply to any approved plan or to any plan in the process of being prepared pursuant to subsection (d) of Section 1533 of Title 16 of the United States Code for the protection of the California Gnatcatcher, as described at page 65088 of Volume 58 of the Federal Register.

SEC. 3. Section 2815 is added to the Fish and Game Code, to read:

2815. (a) The department shall establish a process for public participation throughout plan development and review to ensure that interested persons have an adequate opportunity to provide input to lead agencies, state and federal wildlife agencies and others involved in preparing the plan. The public participation objectives of this section may be achieved through public working groups, advisory committees or public workshops. This process shall include:

(1) A requirement that draft documents associated with a natural community conservation plan that are being considered for adoption by the plan lead agency shall be available for public review and comment

for at least 45 days prior to the adoption of that draft document. Preliminary plan review documents shall be made available by the responsible public agency at least 10 working days prior to any public hearing addressing these documents. The review period specified in this paragraph may run concurrent with the review period provided for any document required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that is associated with the natural community conservation plan. This paragraph shall not be construed to limit the discretion of a city or county to revise any draft documents at a public hearing.

(2) A requirement to make available in a reasonable and timely manner all public review draft plans, memoranda of understanding, maps, conservation guidelines, species coverage lists and other planning documents associated with a natural community conservation plan.

(3) A requirement that all public hearings held during plan preparation or review for approval are complimentary to, or integrated with, those hearings otherwise provided by law.

(4) An outreach program to provide access to information for persons interested in the plan, with an emphasis on obtaining input from a balanced variety of affected public and private interests including state and local governments, landowners, conservation organizations and the general public.

(b) This section applies only to natural community conservation plans for which a planning agreement was entered into by the department pursuant to Section 2810 on or after the effective date of this section, and shall not apply to any approved plan or to any plan in the process of being prepared pursuant to subsection (d) of Section 1533 of Title 16 of the United States Code for the protection of the California Gnatcatcher, as described at page 65088 of Volume 58 of the Federal Register.

SEC. 4. Section 1091.5 of the Government Code is amended to read:

1091.5. (a) An officer or employee shall not be deemed to be interested in a contract if his or her interest is any of the following:

(1) The ownership of less than 3 percent of the shares of a corporation for profit, provided that the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.

(2) That of an officer in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty.

(3) That of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the board.

(4) That of a landlord or tenant of the contracting party if the contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of the contract is the property in which the officer or employee has the interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Section 1091.

(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(6) That of a spouse of an officer or employee of a public agency in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.

(7) That of a nonsalaried member of a nonprofit corporation, provided that this interest is disclosed to the body or board at the time of the first consideration of the contract, and provided further that this interest is noted in its official records.

(8) That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that this interest is noted in its official records.

For purposes of this paragraph, an officer is ''noncompensated'' even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses incurred in performing duties of his or her office.

(9) That of a person receiving salary, per diem, or reimbursement for expenses from a government entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the contract, and provided further that the interest is noted in its official record.

(10) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration,

consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.

(11) Except as provided in subdivision (b), that of an officer or employee of or a person having less than a 10-percent ownership interest in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor, or creditor.

(12) That of (A) a bona fide nonprofit, tax-exempt corporation having among its primary purposes the conservation, preservation, or restoration of park and natural lands or historical resources for public benefit, which corporation enters into an agreement with a public agency to provide services related to park and natural lands or historical resources and which services are found by the public agency, prior to entering into the agreement or as part of the agreement, to be necessary to the public interest to plan for, acquire, protect, conserve, improve, or restore park and natural lands or historical resources for public purposes and (B) any officer, director, or employee acting pursuant to the agreement on behalf of the nonprofit corporation. For purposes of this paragraph, ''agreement'' includes contracts and grants, and ''park,'' ''natural lands,'' and ''historical resources'' shall have the meanings set forth in subdivisions (d), (g), and (i) of Section 5902 of the Public Resources Code. Services to be provided to the public agency may include those studies and related services, acquisitions of property and property interests, and any activities related to those studies and acquisitions necessary for the conservation, preservation, improvement, or restoration of park and natural lands or historical resources.

(b) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.

SEC. 5. Section 11361 is added to the Government Code, to read:

11361. This chapter does not apply to the adoption or revision of regulations, guidelines, or criteria to implement the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act) (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code). The adoption or revision of regulations, guidelines, or criteria, if necessary to implement that act, shall instead be accomplished by means of a public process reasonably calculated to give those persons interested in their adoption or revision an opportunity to be heard.

SEC. 6. Section 12805.1 is added to the Government Code, to read:

12805.1. The Secretary of the Resources Agency shall facilitate coordination between the Department of Fish and Game and the California Coastal Commission in a manner consistent with, and in furtherance of, the goals and policies of Division 20 (commencing with Section 30000) of the Public Resources Code (the California Coastal Act of 1976) and of Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code (the Natural Community Conservation Planning Act).

SEC. 6.5. Section 2773.2 of the Public Resources Code is amended to read:

2773.2. (a) The Secretary of the Resources Agency shall convene a multiagency task force that shall evaluate the effectiveness of the Cache Creek Resource Management Plan in achieving the plan's objectives concerning the rehabilitation and restoration of Cache Creek and identify those aspects of the plan that should be modified or eliminated to more effectively achieve the goals of this chapter.

(b) The task force shall consist of nine members as follows:

(1) A representative of the department.

(2) A representative of the Department of Fish and Game.

(3) A representative of the State Water Resources Control Board.

(4) Six members appointed by the Secretary of the Resources Agency. Of these six members, two shall be elected officials of a city or county with active mining operations within its jurisdiction, one of whom shall represent northern California interests, and one of whom shall represent southern California interests; one shall be a person currently engaged in in-stream mining activities as an employee or owner of a mining operation; one shall be a member of the State Mining and Geology Board; and two shall be members of the scientific community who are affiliated with a California institution of higher education. The representative of the department shall serve as the chairperson of the task force.

(c) The task force, not later than July 1, 2001, shall recommend to the Secretary of the Resources Agency any revisions to this chapter or any other provisions of law, including regulations of the State Mining and Geology Board, that are necessary to incorporate regional resource management plans in the state's regulation of instream mine reclamation. The task force recommendations shall, at a minimum, address all of the following issues:

(1) Flood control.

(2) Stream bank and channel erosion control.

(3) Slope stability.

(4) Vegetation and revegetation.

(5) The interrelationships of private and public land ownership along and within streambed areas, including ownership rights that are or may be ''vested'' as the term is used in Section 2776.

(6) The provision of adequate financial assurances for reclaiming mined areas.

(7) The monitoring of compliance with qualitative and quantitative measures to regulate mine reclamation on large segments of streams and rivers.

(8) Cumulative and site-specific issues related to resource management for instream mine reclamation.

(d) The department shall only convene the multiagency task force required pursuant to subdivision (a) if the costs associated with the operation of the task force will not diminish the department's ability to provide reclamation plan review, financial assurance review, and field inspections, undertake other enforcement actions and provide local assistance to cities or counties under this chapter.

SEC. 7. Funds appropriated by paragraph (10) of Schedule (a) of Item 3790-101-0005 of Section 2.00 of the Budget Act of 2000 may be used to landscape and restore surface area at the park concourse and to design and improve public access facilities for, and roads to, the concourse.

SEC. 8. The amendments to Section 1091.5 of the Government Code made by this act are declaratory of existing law.

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 make the necessary statutory changes to implement the Budget Act of 2000 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 88

An act to add Section 47605.7 to the Education Code, relating to charter schools.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 47605.7 is added to the Education Code, to read:

47605.7. (a) A petition for the establishment of a charter school shall not be denied based on the actual or potential costs of serving individuals with exceptional needs, as that term is defined pursuant to Section 56026.

(b) Notwithstanding subdivision (a), this section shall not be construed to prevent a school district from meeting its obligation to ensure that the proposed charter school will meet the needs of individuals with exceptional needs in accordance with state and federal law, nor shall it be construed to limit or alter the reasons for denying a petition for the establishment of a charter school pursuant to subdivision (b) of Section 47605.

CHAPTER 89

An act to amend Sections 2150, 2166, and 2166.5 of the Elections Code, and to amend Section 6254.4 of the Government Code, relating to elections.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 2150 of the Elections Code is amended to read:

2150. (a) The affidavit of registration shall show:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. No person shall be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and e-mail address, if furnished. No person shall be denied the right to register because of his or her failure to furnish a telephone number or e-mail address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(6) The state or country of the affiant's birth.

(7) The affiant's California driver's license number, California identification card number, or other identification number as specified by the Secretary of State. No person shall be denied the right to register because of his or her failure to furnish one of these numbers, and shall be so advised on the voter registration card.

(8) The affiant's political party affiliation.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write he or she shall sign with a mark or cross.

(c) If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

SEC. 2. Section 2166 of the Elections Code is amended to read:

2166. (a) Any person filing with the county elections official a new affidavit of registration or reregistration may have the information relating to his or her residence address, telephone number, and e-mail address appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon order of a superior court issued upon a showing of good cause that a life threatening circumstance exists to the voter or a member of the voter's household, and naming the county elections official as a party.

(b) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered an absent voter for all subsequent elections or until the county elections official is notified otherwise by the court or in writing by the voter. A voter requesting termination of absent voter status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word ''confidential'' or some similar designation in place of the residence address.

(c) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of disclosure of the information which is the subject of this section unless by a showing of gross negligence or willfulness.

SEC. 3. Section 2166.5 of the Elections Code is amended to read:

2166.5. (a) Any person filing with the county elections official a new affidavit of registration or reregistration may have the information relating to his or her residence address, telephone number, and e-mail address appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon presentation of certification that the person is a participant in the Address Confidentiality for Victims of Domestic Violence program pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(b) Any person granted confidentiality under subdivision (a) shall:

(1) Be considered an absent voter for all subsequent elections or until the county elections official is notified otherwise by the Secretary of State or in writing by the voter. A voter requesting termination of absent voter status thereby consents to placement of his or her residence address, telephone number, and e-mail address in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word ''confidential'' or some similar designation in place of the residence address.

(c) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

(d) Subdivisions (a) and (b) shall not apply to any person granted confidentiality upon receipt by the county elections official of a written notice by the address confidentiality program manager of the withdrawal, invalidation, expiration, or termination of the program participant's certification.

(e) 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. Section 6254.4 of the Government Code is amended to read:

6254.4. (a) The home address, telephone number, e-mail address, precinct number, or other number specified by the Secretary of State for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters is confidential, and shall not be disclosed to any person, except pursuant to Section 2194 of the Elections Code.

(b) For purposes of this section, ''home address'' means street address only, and does not include an individual's city or post office address.

(c) The California driver's license number or California identification card number shown on a voter registration card of a registered voter is confidential and shall not be disclosed to any person.

SEC. 5. Notwithstanding Section 1, any voter registration cards and affidavits of registration in existence on the effective date of this act that have been validly produced pursuant to law shall continue to be used as authorized by law until the existing stock has been exhausted.

CHAPTER 90

An act to amend Section 243 of the Family Code, relating to domestic violence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 2000. Filed with Secretary of State July 5, 2000.]

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

SECTION 1. Section 243 of the Family Code is amended to read:

243. (a) When the matter first comes up for hearing, the applicant must be ready to proceed.

(b) If an order described in Section 240 has been issued without notice pending the hearing, the applicant must have served on the respondent, at least five days before the hearing, a copy of each of the following:

(1) The order to show cause.

(2) The application and the affidavits and points and authorities in support of the application.

(3) Any other supporting papers filed with the court.

(c) If an order described in Section 240 has been issued with notice pending the hearing, the applicant must have served on the respondent the documents described in subdivision (b) at least 15 days before the hearing.

(d) If the applicant fails to comply with subdivision (a) and either subdivision (b) or (c), the court shall dissolve the order.

(e) If service is made under subdivision (b), the respondent is entitled, as of course, to one continuance for a reasonable period, to respond to the application for the order.

(f) On motion of the applicant or on its own motion, the court may shorten the time provided in this section for service on the respondent.

(g) The respondent may, in response to the order to show cause, present affidavits relating to the granting of the order, and if the affidavits are served on the applicant at least two days before the hearing, the applicant is not entitled to a continuance on account of the affidavits.

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 these provisions related to temporary restraining orders are consistent with other provisions of law governing the time period for the service of documents, it is necessary that this act take effect immediately.

CHAPTER 91

An act to amend Sections 14524, 14525, 14526, 14527, 14529, 65080, 65082, and 65083 of, and to add Chapter 4.5 (commencing with Section 14556) to Part 5.3 of Division 3 of Title 2 of, the Government Code, to amend, repeal, and add Section 7102 of, to add Section 10754.2 to, and to add and repeal Section 7104 of, the Revenue and Taxation Code, and to amend Sections 164.6, 182.6, and 182.7 of, and to add Sections 182.8, 183.1, 2182, and 2182.1 to, the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

I am signing Assembly Bill No. 2928, a comprehensive transportation funding measure which incorporates most of the proposals I made for almost $5 billion in congestion relief, transportation system connectivity and goods movement projects. The bill also provides over $1.4 billion in additional funds over five years for local street and road maintenance, transit operations and State Transportation Improvement Program projects.

However, I am reducing or eliminating certain appropriations made in Section 6 of the bill, which adds Chapter 4.5 (commencing with Article 5, Section 14556.40) to Part 5.3 of Division 3 of Title 2 of the Government Code, by a total of $93,800,000. These expenditures are being eliminated because I have specific concerns about the projects and their priority for inclusion in this plan, and about the precedent these projects would set with respect to state expenditures. Additionally, I am requesting that the Legislature enact subsequent legislation to correct certain technical defects in this bill and modify the financing of the program to have less of an impact on the State General Fund in future years.

I am reducing the expenditures in Chapter 4.5, Article 5, Section 14556.40, Subsection (a) of the Government Code by eliminating or reducing the following paragraphs:

Paragraph (120) is eliminated, which allocates $1,500,000 to Yuba County for the Yuba Airport runway extension and associated improvements. This project is not a congestion relief project affecting most travelers in the area..

Paragraph (125) is eliminated, which allocates $5,000,000 to the Orange County Transportation Authority for the Route 57 toll road environmental impact report and study for expansion project. The franchise agreement for this project prohibits use of state funds in this fashion.

Paragraph (130) is eliminated, which allocates $3,500,000 to the City of Garden Grove for the Route 22; connector to the interchange with I-405. Over $206 million for Route 22 is already included in paragraph (70).

Paragraph (131) is eliminated, which allocates $800,000 to the town of Apple Valley for the Bear Valley Road closure project and Kasota Road safety redesign. Funding for this project may be available in the State Highway Operations and Preservation Program and through local street and road funding.

Paragraph (132) is eliminated, which allocates $7,000,000 to Los Angeles County for the Fairway Drive grade separation project in the San Gabriel Valley. This project already has access to several funding sources through the Alameda Corridor East Project.

Paragraph (136) is eliminated, which allocates $3,500,000 to City of Palmdale for the widening of Avenue S; between Route 14 and Route 138. This project does not appear to provide significant congestion relief or to fit other priorities for use of these funds.

Paragraph (137) is eliminated, which allocates $5,500,000 to City of Lancaster for improvements to the Fox Field Industrial Corridor. This project does not appear to provide significant congestion relief or to fit other priorities for use of these funds.

Paragraph (138) is reduced by $3,000,000 to $4,000,000, which allocates funds to the Cross Valley Rail Corridor Joint Powers Authority for the upgrade of railroad track from Visalia to Huron. This project mainly funds improvements to rail lines that will be used by short line freight rail. Although I recognize that this project may provide significant local goods movement capacity, I expect local and railroad funds to provide the majority of funding.

Paragraph (142) is reduced by $1,500,000 to $2,000,000 for the City of West Hollywood for the repair, maintenance, and mitigation of Santa Monica Boulevard. A portion this project appears to be eligible for the street and road maintenance funding provided in this measure.

Paragraph (143) is eliminated, which allocates $1,900,000 to the Capital Corridor Joint Powers Authority for the expansion of intercity rail service between San Jose, Oakland, and the Sacramento region. Such service cannot be implemented this year, and the ongoing operating costs should be funded from the Public Transportation Account in due course.

Paragraph (144) is reduced by $45,000,000 to $5,000,000 for the Golden Gate Bridge Highway and Transportation District for the seismic retrofit of the Golden Gate Bridge. It is my understanding that other funding sources are available, and Caltrans will be working.with the District to assist in securing federal funding for this project.

Paragraph (147) is eliminated, which allocates $7,000,000 to the Imperial Valley Association of Governments for the reconstruction of the I-8/Imperial Avenue interchange. This project does not appear to provide significant congestion relief or to fit other priorities for use of these funds.

Paragraph (155) is eliminated, which allocates $8,600,000 to the City of Chula Vista to acquire right-of-way, build, and operate a 10-mile limited access tall facility from San Miguel Road to Otay Mesa Road and conduct a due diligence review, including an independent appraisal of the feasibility of acquisition by a public agency of the Route 125 franchise agreement authorized under Section 143 of the Streets and Highways Code. I do not support state funding for the acquisition of a private toll road franchise.

Additionally, I am taking identical actions on the same projects as listed in SB 406, a measure that corrects certain provisions of this bill.

GRAY DAVIS, Governor

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

SECTION 1. Section 14524 of the Government Code is amended to read:

14524. (a) Not later than July 15, 2001, and July 15 of each odd-numbered year thereafter, the department shall submit to the commission a five-year estimate pursuant to Section 164 of the Streets and Highways Code, in annual increments, of all federal and state funds reasonably expected to be available during the following five fiscal years.

(b) The estimate shall specify the amount that may be programmed in each county for regional improvement programs pursuant to paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways Code and shall identify any statutory restriction on the use of particular funds.

(c) For the purpose of estimating revenues, the department shall assume that there will be no changes in existing state and federal statutes. Federal funds available for demonstration projects that are not subject to federal obligational authority, or are accompanied with their own dedicated obligational authority, shall not be considered funds that would otherwise be available to the state and shall not be included in the fund estimate.

(d) The method by which the estimate is determined shall be determined by the commission, in consultation with the department, transportation planning agencies, and county transportation commissions.

SEC. 2. Section 14525 of the Government Code is amended to read:

14525. (a) Not later than August 15, 2001, and August 15 of each odd-numbered year thereafter, the commission shall adopt a five-year estimate pursuant to Section 164 of the Streets and Highways Code, in annual increments, of all state and federal funds reasonably expected to be available during the following five fiscal years.

(b) The estimate shall specify the amount that may be programmed in each county for regional improvement programs under paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways Code and shall identify any statutory restriction on the use of particular funds.

(c) For the purpose of estimating revenues, the commission shall assume that there will be no change in existing state and federal statutes. Federal funds available for demonstration projects that are not subject to federal obligational authority, or are accompanied with their own dedicated obligational authority, shall not be considered funds that

would otherwise be available to the state and shall not be included in the fund estimate.

(d) If the commission finds that legislation pending before the Legislature or the United States Congress may have a significant impact on the fund estimate, the commission may postpone the adoption of the fund estimate for no more than 90 days. Prior to March 1 of each even-numbered year, the commission may amend the estimate following consultation with the department, transportation planning agencies, and county transportation commissions to account for unexpected revenues or other unforeseen circumstances. In the event the fund estimate is amended, the commission shall extend the dates for the submittal of improvement programs as specified in Sections 14526 and 14527 and for the adoption of the state transportation improvement program pursuant to Section 14529.

SEC. 3. Section 14526 of the Government Code is amended to read:

14526. (a) Not later than December 15, 2001, and December 15 of each odd-numbered year thereafter, and after consulting with the transportation planning agencies, county transportation commissions, and transportation authorities, the department shall submit to the commission its five-year interregional transportation improvement program consisting of all of the following:

(1) Projects to improve state highways, pursuant to subdivision (b) of Section 164 of the Streets and Highways Code.

(2) Projects to improve the intercity passenger rail system.

(3) Projects to improve interregional movement of people, vehicles, and goods.

(b) Projects may not be included in the interregional transportation improvement program without a project study report or major investment study.

(c) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and shall be consistent with, and provide the information required in, subdivision (b) of Section 14529.

(d) Projects included in the interregional transportation improvement program shall be consistent with the adopted regional transportation plan.

SEC. 4. Section 14527 of the Government Code is amended to read:

14527. (a) After consulting with the department, the regional transportation planning agencies and county transportation commissions shall adopt and submit to the commission and the department, not later than December 15, 2001, and December 15 of each odd-numbered year thereafter, a five-year regional transportation improvement program in conformance with Section 65082. In counties where a county transportation commission or authority has been created

pursuant to Chapter 2 (commencing with Section 130050) of Division 12 of the Public Utilities Code, the commission or the authority shall adopt and submit the county transportation improvement program, in conformance with Sections 130303 and 130304 of that code, to the multicounty designated transportation planning agency. Other information, including a program for expenditure of local or federal funds, may be submitted for information purposes with the program, but only at the discretion of the transportation planning agencies or the county transportation commissions.

(b) The regional transportation improvement program shall include all projects to be funded with regional improvement funds under paragraph (2) of subdivision (a) of Section 164 of the Streets and Highways Code. The regional programs shall be limited to projects to be funded in whole or in part with regional improvement funds which shall include all projects to receive allocations by the commission during the following five fiscal years. For each project, the total expenditure for each project component and the total amount of commission allocation and the year of allocation shall be stated. The total cost of projects to be funded with regional improvement funds shall not exceed the amount specified in the fund estimate made by the commission pursuant to Section 14525.

(c) The regional transportation planning agencies and county transportation commissions may recommend projects to improve state highways with interregional improvement funds pursuant to subdivision (b) of Section 164 of the Streets and Highways Code. The recommendations shall be separate and distinct from the regional transportation program. A project recommended for funding pursuant to this subdivision shall constitute a usable segment and shall not be a condition for inclusion of other projects in the regional transportation improvement program.

(d) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and shall be consistent with, and provide the information required in, subdivision (b) of Section 14529.

(e) The regional transportation improvement program may not change the project delivery milestone date of any project as shown in the prior adopted state transportation improvement program without the consent of the department or other agency responsible for the project's delivery.

(f) Projects may not be included in the regional transportation improvement program without a complete project study report or, for a project that is not on a state highway, a project study report equivalent or major investment study.

(g) The transportation planning agencies and county transportation commissions may request and receive an amount not to exceed one-half of 1 percent of their regional improvement fund expenditures for the purposes of project planning, programming, and monitoring. A transportation planning agency or county transportation commission not receiving federal metropolitan planning funds may request and receive an amount not to exceed 2 percent of its regional improvement fund expenditures for the purposes of project planning, programming, and monitoring.

SEC. 5. Section 14529 of the Government Code is amended to read:

14529. (a) The state transportation improvement program shall include a listing of all capital improvement projects that are expected to receive an allocation of state transportation funds under Section 164 of the Streets and Highways Code, including revenues from transportation bond acts, from the commission during the following five fiscal years. It shall include, and be limited to, the projects to be funded with the following:

(1) Interregional improvement funds.

(2) Regional improvement funds.

(b) For each project, the program shall specify the allocation or expenditure amount and the allocation or expenditure year for each of the following project components:

(1) Completion of all permits and environmental studies.

(2) Preparation of plans, specifications, and estimates.

(3) The acquisition of rights-of-way, including, but not limited to, support activities.

(4) Construction and construction management and engineering, including surveys and inspection.

(c) Funding for right-of-way acquisition and construction for a project may be included in the program only if the commission makes a finding that the sponsoring agency will complete the environmental process and can proceed with right-of-way acquisition or construction within the five-year period. No allocation for right-of-way acquisition or construction shall be made until the completion of the environmental studies and the selection of a preferred alternative.

(d) The commission shall adopt and submit to the Legislature and the Governor, not later than April 1 of each even-numbered year thereafter, a state transportation improvement program. The program shall cover a period of five years, beginning July 1 of the year it is adopted, and shall be a statement of intent by the commission for the allocation or expenditure of funds during those five years. The program shall include projects which are expected to receive funds prior to July 1 of the year of adoption, but for which the commission has not yet allocated funds.

(e) The projects included in the adopted state transportation improvement program shall be limited to those projects submitted or recommended pursuant to Sections 14526 and 14527. The total amount programmed in each fiscal year for each program category shall not exceed the amount specified in the fund estimate adopted under Section 14525.

(f) The state transportation improvement program is a resource management document to assist the state and local entities to plan and implement transportation improvements and to utilize available resources in a cost-effective manner. It is a document for each county and each region to declare their intent to use available state and federal funds in a timely and cost-effective manner.

(g) Prior to the adoption of the state transportation improvement program, the commission shall hold not less than one hearing in northern California and one hearing in southern California to reconcile any objections by any county or regional agency to the department's program or the department's objections to any regional program.

(h) The commission shall incorporate projects that are included in the regional transportation improvement program and are to be funded with regional improvement funds, unless the commission finds that the regional transportation improvement program is not consistent with the guidelines adopted by the commission or is not a cost-effective expenditure of state funds, in which case the commission may reject the regional transportation improvement program in its entirety. The finding shall be based on an objective analysis, including, but not limited to, travel forecast, cost, and air quality. The commission shall hold a public hearing in the affected county or region prior to rejecting the program, or not later than 60 days after rejecting the program. When a regional transportation improvement program is rejected, the regional entity may submit a new regional transportation improvement program for inclusion in the state transportation improvement program. The commission shall not reject a regional transportation improvement program unless, not later than 60 days after the date it received the program, it provided notice to the affected agency that specified the factual basis for its proposed action.

(i) A project may be funded with more than one of the program categories listed in Section 164 of the Streets and Highways Code.

(j) Notwithstanding any other provision of law, no local or regional matching funds shall be required for projects that are included in the state transportation improvement program.

(k) The commission may include a project recommended by a regional transportation planning agency or county transportation commission pursuant to subdivision (c) of Section 14527, if the commission makes a finding, based on an objective analysis, that the

recommended project is more cost-effective than a project submitted by the department pursuant to Section 14526.

SEC. 6. Chapter 4.5 (commencing with Section 14556) is added to Part 5.3 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4.5. THE TRAFFIC CONGESTION RELIEF ACT OF 2000

Article 1. General Provisions

14556. This chapter shall be known and may be cited as the Traffic Congestion Relief Act of 2000.

14556.1. For purposes of this chapter, the following terms shall have the following meanings, unless expressly stated otherwise:

(a) ''Commission'' is the California Transportation Commission.

(b) ''Department'' is the Department of Transportation.

(c) ''Fund'' is the Traffic Congestion Relief Fund created under this chapter.

(d) ''Program'' is the Traffic Congestion Relief Program established under this chapter.

14556.3 The Legislature finds and declares that it is in the interest of the State of California to immediately take steps to relieve congestion on the state's transportation systems and finds and declares the following:

(a) California's population has grown by more than 50 percent over the past 20 years while highway capacity has increased only 7 percent.

(b) Between 1987 and 1995, the number of California drivers who sit idle in traffic congestion has grown 70 percent, and California drivers now sit idle in traffic congestion more than 300,000 hours per day.

(c) It is estimated that traffic congestion in California now costs the state's businesses more than two million eight hundred thousand dollars ($2,800,000) per day in lost time and resources.

(d) Local streets and roads in California suffer from an estimated ten billion two hundred million dollars ($10,200,000,000) backlog of deferred maintenance. The magnitude of this backlog is estimated to increase by four hundred million dollars ($400,000,000) each year.

(e) The Public Transportation Account in the State Transportation Fund, which provides funds for transit operations and intercity rail service in California, is estimated to have a four-year deficit of fifty-three million dollars ($53,000,000), increasing to a six-year deficit of one hundred fifty-eight million dollars ($158,000,000).

(f) The state's population is expected to exceed 45,000,000 persons by the year 2020, imposing additional demand on the transportation system.

(g) Significant benefits will be obtained by completing major improvements earlier, accelerating development of new improvements, and improving the connectivity of the various transportation modes within the state's transportation system.

(h) Therefore, it is appropriate to create a Traffic Congestion Relief Fund to finance congestion relief improvements, to dedicate the sales tax on gasoline to transportation purposes, and to create a Transportation Investment Fund to finance improvements to neighborhood streets and roads, to provide funding for transit operations and intercity rail, and to supplement the Traffic Congestion Relief Fund.

Article 2. Traffic Congestion Relief Fund

14556.5. The Traffic Congestion Relief Fund is hereby created in the State Treasury. The fund shall include deposits of funding provided in the annual Budget Act, provided from the Transportation Investment Fund established under Section 7104 of the Revenue and Taxation Code, or provided under any other legislation. Notwithstanding Section 13340, the money in the fund is hereby continuously appropriated to the department, without regard to fiscal years, for allocation, as directed by the commission pursuant to Section 14556.20, to the department and other regional and local transportation entities for the projects listed in Article 5 (commencing with Section 14556.40) to the Controller for allocation to cities, counties, and cities and counties pursuant to Section 2182 of the Streets and Highways Code, and to the commission for the funding exchange program authorized by Section 182.8 of the Streets and Highways Code.

14556.6. The purpose of this article is to relieve traffic congestion, provide additional funding for local street and road deferred maintenance, and provide additional transportation capacity in high growth areas of the state. The Traffic Congestion Relief Fund is intended to contribute five billion three hundred ninety million dollars ($5,390,000,000), above the traditional transportation funding provided by the state, towards the funding of projects listed in Article 5 (commencing with Section 14556.40) and the deferred maintenance program authorized in Section 2182 of the Streets and Highways Code. This funding commitment is intended to be combined with other state, local, federal, and private funds to complete and operate the transportation improvements identified in Article 5 (commencing with Section 14556.40). Funds needed to meet the contribution commitment described in this section are intended to be provided as follows:

(a) The sum of one billion five hundred million dollars ($1,500,000,000) from the General Fund, as appropriated by Section 20 of the act that added this chapter, to the fund.

(b) The sum of five hundred million dollars ($500,000,000) from the transfer of the sales and use tax on motor vehicle fuel during the 2000–01 fiscal year, as required under Section 7102 of the Revenue and Taxation Code, as amended by Section 10 of the act that added this section.

(c) The sum of six hundred seventy-eight million dollars ($678,000,000) is intended to be provided in each of five successive fiscal years, commencing with the 2001–02 fiscal year, from the Transportation Investment Fund.

Article 3. Fund Allocation and Expenditure

14556.10. (a) The lead applicant agency specified for each project in Article 5 (commencing with Section 14556.40) shall be responsible for preparing and submitting a project application to the commission in accordance with guidelines adopted by the commission.

(b) The lead applicant agency may, but is not required, to be the agency responsible for carrying out the work to complete the project.

(c) A lead applicant agency may submit separate applications for separate projects identified in Article 5 (commencing with Section 14556.40).

14556.11. Not later than 90 days from the effective date of the act that added this section, the commission, in consultation with the department and representatives from regional agencies and local agencies, and after a public hearing, shall establish guidelines to implement this chapter. The guidelines shall include, but not be limited to, criteria for project applications, estimation costs, assessment of capability to complete the project, allocation of funds to project phases, timely expenditure of funds, management of changes to cost, scope, and schedules, assessment of progress in implementing projects, and audit requirements.

14556.12. (a) Designated lead applicant agencies shall submit applications to the commission within two years of the effective date of the act that added this section. If a completed application is not received within this period for a project listed in Article 5 (commencing with Section 14556.40), or an alternate project has not been submitted by the appropriate lead agency pursuant to subdivision (b), the commission shall notify the Governor and the Legislature and shall seek statutory identification and approval of another project or projects to use the funds.

(b) (1) A designated lead applicant agency may submit an application for an alternate or substitute for a project specified in Section 14556.40, for other than an intercity rail project, if the specified project is delayed by environmental or other factors external to the control of the lead applicant agency that are not likely to be removed within a

reasonable time, if sufficient matching funds are not available to secure the designated state grant funds, if the specified project is not included in or consistent with the respective regional transportation plan, or if completion of the specified project would jeopardize the completion of other projects previously programmed in the State Transportation Improvement Program.

(2) An application for an alternative project shall be approved by the commission if the application is submitted by the identified lead applicant agency within the two-year period specified in subdivision (a), the alternative project is designated to relieve congestion consistent with this act, the alternate project is within the jurisdiction of the lead applicant agency, and all other project approval requirements are met.

14556.13. (a) The project applications shall define the project purpose, intended scope, proposed cost, intended funding sources, and schedule for project completion. Each application shall also specify the paragraph number of subdivision (a) of Section 14556.40 that authorizes the project, and identify the agency responsible for carrying out the work, to which the commission will allocate funds.

(b) Except as authorized under subdivision (c), the project application shall specify the scope of work, the cost, and the schedule for the following separate phases of work, as appropriate:

(1) Studies, environmental review, and permits.

(2) Preparation of project plans and specifications.

(3) Right-of-way acquisition.

(4) Construction or procurement.

(c) Some projects may be permitted to include scope of work on less than all of the phases specified in subdivisions (b).

(d) In accordance with guidelines established by the commission, each application shall include a plan describing all capital funds required for the project, the sources and the timing for those funds, and how those funds will be used. An application may seek funding for a single phase of a project.

(e) Applications for projects involving regional improvement program funds shall be cosigned by the regional transportation planning agency responsible for the regional transportation improvement program. Applications for projects involving interregional improvement program funds or where the state is the owner-operator shall be cosigned by the department.

(f) The plan shall identify the sources and timing of all funds required to undertake and complete any phase of a project for which the applicant seeks an allocation of funds from the commission. The plan should also describe intended sources and timing of funds to complete any subsequent phases of the project, through construction.

14556.14. The commission shall ascertain from the appropriate regional transportation planning agency that a project is included in, or is consistent with, the appropriate regional transportation plan before approving a project application involving right-of-way or construction phases. A project that involves only studies or project development phases is not required to be included in a regional transportation plan, unless federal funds will also be used to fund the project.

14556.16. (a) The commission, with the assistance of the department, shall begin review of a project application within 30 days of receipt of the application.

(b) The commission shall either approve or deny a project application within 90 days of the receipt of the application, unless the commission requests additional information from the applicant, in which case the 90-day time to approve or deny the application shall begin on the date that the commission receives the additional information requested.

(c) The commission shall state specific reasons for denying an application. The commission shall allow the applicant to amend and resubmit an application that has been denied. The commission shall then have 90 days from receipt of the amended application to reconsider the denial.

(d) The commission shall not deny an application that meets the requirements of this chapter, including the guidelines adopted by the commission for this chapter and any other applicable statutes and regulations. The commission shall not unreasonably delay approval of an application that substantially conforms to these requirements if the applicant agrees to allow modifications to the application to meet the commission's conditions for approval.

14556.18. (a) Commission approval of a project application establishes the time schedule, by fiscal year, for implementation of the phases of a project. Project approval shall be deemed rescinded if the lead applicant agency or the agency responsible for carrying out the project does not seek an allocation from the commission and start the first phase of work during the fiscal year scheduled.

(b) If the first phase is not completed as scheduled, so that work on subsequent phases is delayed, the agency responsible for carrying out the project shall report the reasons for failure to complete the project to the commission. The commission may then reconsider the project application, ask for modification of the schedule and any other requirements of the application, and may, at its discretion, extend the time of reconsideration until environmental studies, review, and approval of final environmental documents has been completed.

14556.20. (a) The commission shall direct the department to allocate funds to the department, regional transportation planning agencies, local transportation commissions, congestion management

agencies, transportation authorities, cities, counties, a city and county, joint powers authorities, ports, and transit districts for projects specified in Article 5 (commencing with Section 14556.40).

(b) Funds allocated as directed by the commission shall be expended only for studies or the phases of project work specified in Article 5 (commencing with Section 14556.40).

(c) Allocations shall be made to specified phases of a project and may include more than one phase in a given allocation. The commission shall, at the time the first allocation is made to a project, indicate how it intends to spread the total funding authorized for the project among the phases, but that indication shall not be binding for future phases if the commission finds that a different level of funding for a later phase would help ensure quicker delivery of the project for construction.

(d) Consistent with Article 5 (commencing with Section 14556.40), these funds may be used to satisfy any federal, state, or local matching fund requirement for the project to be funded.

(e) The allocation shall specify the percentage rate of reimbursement for expenditures for each phase of the project, considering the funding shares from various sources that comprise the full funding of each phase. The commission may specify different rates of reimbursement for different phases, and shall determine the spread of funding specified in Article 5 (commencing with Section 14556.40) across all the phases of work, as appropriate for the project.

(f) The commission may approve minor changes to project scope, cost, or schedule, so long as those modifications fall within the project purpose specified in the project application.

(g) The commission may consider applications under this section upon adoption of implementing guidelines.

Article 4. Administration and Expenditure of Funds

14556.25. (a) The department shall execute a cooperative agreement with the lead applicant agency or the agency responsible for carrying out the work for reimbursement of approved project expenditures, using funds allocated by the commission for that purpose and project phase. To reduce time and financial burden on lead applicant agencies, the department shall use electronic reimbursement procedures to the extent prudent and practical.

(b) The cooperative agreement shall specify how additional costs are to be covered, if necessary, and how savings are to be used or distributed, if available, among all the various funding sources being used for the project.

14556.26. A regional or local agency receiving an allocation from this program shall certify, by resolution of its governing board, before

final execution of the cooperative agreement, that it will sustain its level of expenditures for transportation purposes at a level that is consistent with the level for 1999–2000 fiscal year, including funds reserved for transportation purposes, during the fiscal years that the allocation provided under this chapter is available for use. The certification is subject to audit by the state.

14556.28. (a) For applicants other than the department, funds allocated shall generally be administered as a reimbursement program. At the request of an applicant, the commission shall authorize an advance payment for project development work necessary for a project specified in Article 5 (commencing with Section 14556.40). At the request of an applicant, the commission may authorize an advance payment for demonstrated need, or for a project right-of-way, construction, or procurement phase.

(b) Project costs incurred prior to commission approval of a project application may not be reimbursed. Project costs incurred prior to commission allocation of funds, but after commission approval of a project application, may be reimbursed retroactively after allocation.

14556.30. (a) After receiving an allocation, the lead applicant shall make diligent and timely progress toward completing the work as described in the submitted application. If timely progress is not achieved, the commission may review the status of the project. If the commission finds the lead applicant agency is not pursuing project work diligently, including use of funds under the agency's control committed to the project, the commission may reallocate those funds to another project or projects listed in Article 5 (commencing with Section 14556.40).

(b) If the commission and a lead applicant agency concur that a project is delayed by factors external to the control of the lead applicant agency and the factors are not likely to be removed within a reasonable time, the lead applicant agency may submit an application for an alternate or substitute project if the alternate project is designed to relieve congestion consistent with this act, is within the jurisdiction of the lead applicant agency, and meets all other project approval requirements.

(c) Notwithstanding Section 16304, funds allocated from the fund shall be available for encumbrance for three years after the date of allocation, and encumbered funds shall be available for liquidation for two additional years, unless the time limit is extended by an act of the Legislature. Any funds not expended by that time-limit shall revert to the fund.

14556.32. (a) The rate of reimbursement of expenditures shall not exceed the rate determined by the commission in its allocation of funds.

(b) After notifying the commission of savings in any phase, the lead applicant may use those savings for expenditures on a later phase of the same project.

(c) If additional funds are needed to complete a project, the lead applicant agency shall be responsible for securing the funding needed from other sources outside this program. The commission may not increase the allocation from this program beyond the amount specified for the project in Article 5 (commencing with Section 14556.40) unless the Governor and the Legislature subsequently designate a higher amount for the project.

(d) If a project can be completed at a lower cost than expected, any savings shall be divided among all funding sources contributing to the project in the proportion each of the funding sources bears to the total funding for the project as defined in the approved project application. For the savings that revert to this program, the commission shall determine the amount to be returned to the fund.

(e) If a determination is made to cease funding for a project, funds allocated but not expended on any phase shall be returned to the fund.

14556.34. Any agency or combination of agencies that succeed to an agency having any rights, powers, duties, or obligations under this chapter, including, but not limited to, eligibility to apply for, receive, and expend a grant allocation, shall fully succeed to those rights, powers, duties, and obligations.

14556.36. The commission shall report annually, starting no later than February 2001, to the Governor and the Legislature on progress in implementation of the program. The report shall assess programwide implementation progress, and identify project schedules and delays, project failures, cost savings, and any opportunities for the specification of additional or alternative projects for funding. The commission report may also discuss any significant issues associated with implementation of the program, and recommend changes that could improve implementation.

Article 5. Eligible Projects

14556.40. (a) The following projects are eligible for grants from the fund for the purposes and amounts specified:

(1) BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties. Seven hundred twenty-five million dollars ($725,000,000). The lead applicant is the Bay Area Rapid Transit District.

(2) Fremont-South Bay Commuter Rail; acquire rail line and start commuter rail service between Fremont and San Jose in Santa Clara and

Alameda Counties. Thirty-five million dollars ($35,000,000). The lead applicant is the Santa Clara Valley Transportation Authority.

(3) Route 101; widen freeway from four to eight lanes south of San Jose, Bemal Road to Burnett Avenue in Santa Clara County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(4) Route 680; add northbound HOV lane over Sunol Grade, Milpitas to Route 84 in Santa Clara and Alameda Counties. Sixty million dollars ($60,000,000). The lead applicant is the department or the Alameda County Congestion Management Agency.

(5) Route 101; add northbound lane to freeway through San Jose, Route 87 to Trimble Road in Santa Clara County. Five million dollars ($5,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(6) Route 262; major investment study for cross connector freeway, Route 680 to Route 880 near Warm Springs in Santa Clara County. One million dollars ($1,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(7) CalTrain; expand service to Gilroy; improve parking, stations, and platforms along UPRR line in Santa Clara County. Fifty-five million dollars ($55,000,000). The lead applicant is Santa Clara Valley Transportation Authority.

(8) Route 880; reconstruct Coleman Avenue Interchange near San Jose Airport in Santa Clara County. Five million dollars ($5,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(9) Capitol Corridor; improve intercity rail line between Oakland and San Jose, and at Jack London Square and Emeryville stations in Alameda and Santa Clara Counties. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Capitol Corridor Joint Powers Authority.

(10) Regional Express Bus; acquire low-emission buses for new express service on HOV lanes regionwide. In nine counties. Forty million dollars ($40,000,000). The lead applicant is the Metropolitan Transportation Commission.

(11) San Francisco Bay Southern Crossing; complete feasibility and financial studies for new San Francisco Bay crossing (new bridge, HOV/Transit bridge or second BART tube) in Alameda and San Francisco or San Mateo Counties. Five million dollars ($5,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(12) Bay Area Transit Connectivity; complete studies of, and fund related improvements for, the I-580 Livermore Corridor; West Contra Costa County and Route 4 Corridors in Alameda and Contra Costa

Counties. Seventeen million dollars ($17,000,000). The lead applicant for the I-580 study is the Alameda County Congestion Management Agency; and the Contra Costa Transportation Authority is the lead applicant for the West Contra Costa and Route 4 studies.

(13) CalTrain Peninsula Corridor; acquire rolling stock, add passing tracks, and construct pedestrian access structure at stations between San Francisco and San Jose in San Francisco, San Mateo, and Santa Clara Counties. One hundred twenty-seven million dollars ($127,000,000). The lead applicant is the Peninsula Joint Powers Board.

(14) CalTrain; extension to Salinas in Monterey County. Twenty million dollars ($20,000,000). The lead applicant is the Transportation Agency for Monterey County.

(15) Route 24; Caldecott Tunnel; add fourth bore tunnel with additional lanes in Alameda and Contra Costa Counties. Twenty million dollars ($20,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(16) Route 4; construct one or more phases of improvements to widen freeway to eight lanes from Railroad through Loveridge Road, including two high-occupany vehicle lanes, and to six or more lanes from east of Loveridge Road through Hillcrest. Thirty-nine million dollars ($39,000,000). The lead applicant is the Contra Costa Transportation Authority.

(17) Route 101; add reversible HOV lane through San Rafael, Sir Francis Drake Boulevard to North San Pedro Road in Marin County. Fifteen million dollars ($15,000,000). The lead applicant is the department or the Marin Congestion Management Agency.

(18) Route 101; widen eight miles of freeway to six lanes, Novato to Petaluma (Novato Narrows) in Marin and Sonoma Counties. Twenty-one million dollars ($21,000,000). The lead applicant is the department or the Sonoma County Transportation Authority.

(19) Bay Area Water Transit Authority; establish a regional water transit system beginning with Treasure Island in the City and County of San Francisco. Two million dollars ($2,000,000). The lead applicant is the Bay Area Water Transit Authority.

(20) San Francisco Muni Third Street Light Rail; extend Third Street line to Chinatown (tunnel) in the City and County of San Francisco. One hundred forty million dollars ($140,000,000). The lead applicant is the Municipal Transportation Agency.

(21) San Francisco Muni Ocean Avenue Light Rail; reconstruct Ocean Avenue light rail line to Route 1 near California State University, San Francisco, in the City and County of San Francisco. Seven million dollars ($7,000,000). The lead applicant is the Municipal Transportation Agency.

(22) Route 101; environmental study for reconstruction of Doyle Drive, from Lombard St./Richardson Avenue to Route 1 Interchange in City and County of San Francisco. Fifteen million dollars ($15,000,000). The lead applicant is the department or the San Francisco County Transportation Authority.

(23) CalTrain Peninsula Corridor; complete grade separations at Poplar Avenue in (Burlingame), 25th Avenue (San Mateo), and Linden Avenue (South San Francisco) in San Mateo County. Fifteen million dollars ($15,000,000). The lead applicant is the San Mateo County Transportation Authority.

(24) Vallejo Baylink Ferry; acquire low-emission ferryboats to expand Baylink Vallejo-San Francisco service in Solano County. Five million dollars ($5,000,000). The lead applicant is the City of Vallejo.

(25) I-80/I-680/Route 12 Interchange in Fairfield in Solano County; 12 interchange complex in seven stages (Stage 1). Thirteen million dollars ($13,000,000). The lead applicant is the department or the Solano Transportation Authority.

(26) ACE Commuter Rail; add siding on UPRR line in Livermore Valley in Alameda County. One million dollars ($1,000,000). The lead applicant is the San Joaquin Regional Rail Authority.

(27) Vasco Road Safety and Transit Enhancement Project in Alameda and Contra Costa Counties. Eleven million dollars ($11,000,000). The lead applicant is Alameda County Congestion Management Authority.

(28) Parking Structure at Transit Village at Richmond BART Station in Contra Costa County. Five million dollars ($5,000,000). The lead applicant is the Bay Area Rapid Transit District.

(29) AC Transit; buy two fuel cell buses and fueling facility for demonstration project in Alameda and Contra Costa Counties. Eight million dollars ($8,000,000). The lead applicant is the Alameda Contra Costa Transit District.

(30) Implementation of commuter rail passenger service from Cloverdale south to San Rafael and Larkspur in Marin and Sonoma Counties. Thirty-seven million dollars ($37,000,000). The lead applicant is the Sonoma-Marin Area Transit Authority.

(31) Route 580; construct eastbound and westbound HOV lanes from Tassajara Road/Santa Rita Road to Vasco Road in Alameda County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Alameda County Congestion Management Authority.

(32) North Coast Railroad; repair and upgrade track to meet Class II (freight) standards in Napa and Humboldt Counties. Sixty million dollars ($60,000,000). The lead applicant is North Coast Rail Authority.

(33) Bus Transit; acquire low-emission buses for Los Angeles County MTA bus transit service. One hundred fifty million dollars

($150,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(34) Blue Line to Los Angeles; new rail line Pasadena to Los Angeles in Los Angeles County. Forty million dollars ($40,000,000). The lead applicant is the Pasadena Metro Blue Line Construction Authority.

(35) Pacific Surfliner; triple track intercity rail line within Los Angeles County and add run-through-tracks through Los Angeles Union Station in Los Angeles County. One hundred million dollars ($100,000,000). The lead applicant is the department.

(36) Los Angeles Eastside Transit Extension; build new light rail line in East Los Angeles, from Union Station to Atlantic via 1st Street to Lorena in Los Angeles County. Two hundred thirty-six million dollars ($236,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(37) Los Angeles Mid-City Transit Improvements; build Bus Rapid Transit system or Light Rail Transit in Mid-City/Westside/Exposition Corridors in Los Angeles County. Two hundred fifty-six million dollars ($256,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(38) Los Angeles-San Fernando Valley Transit Extension; (A) build an East-West Bus Rapid Transit system in the Burbank-Chandler corridor, from North Hollywood to Warner Center. One hundred forty-five million dollars ($145,000,000). (B) Build a North-South corridor bus transit project that interfaces with the foregoing East-West Burbank-Chandler corridor project and with the Ventura Boulevard Rapid Bus project. One hundred million dollars ($100,000,000). The lead applicant for both extension projects is the Los Angeles County Metropolitan Transportation Authority.

(39) Route 405; add northbound HOV lane over Sepulveda Pass, Route 10 to Route 101 in Los Angeles County. Ninety million dollars ($90,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(40) Route 10; add HOV lanes on San Bernardino Freeway over Kellogg Hill, near Pomona, Route 605 to Route 57 in Los Angeles County. Ninety million dollars ($90,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(41) Route 5; add HOV lanes on Golden State Freeway through San Fernando Valley, Route 170 (Hollywood Freeway) to Route 14 (Antelope Valley Freeway) in Los Angeles County. Fifty million dollars ($50,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(42) Route 5; widen Santa Ana Freeway to 10 lanes (two HOV + two mixed flow), Orange County line to Route 710, with related major

arterial improvements, in Los Angeles County. One hundred twenty-five million dollars ($125,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(43) Route 5; improve Carmenita Road Interchange in Norwalk in Los Angeles County. Seventy-one million dollars ($71,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(44) Route 47 (Terminal Island Freeway); construct interchange at Ocean Boulevard Overpass in the City of Long Beach in Los Angeles County. Eighteen million four hundred thousand dollars ($18,400,000). The lead applicant is the Port of Long Beach.

(45) Route 710; complete Gateway Corridor Study, Los Angeles/Long Beach ports to Route 5 in Los Angeles County. Two million dollars ($2,000,000). The lead applicant is the department.

(46) Route 1; reconstruct intersection at Route 107 in Torrance in Los Angeles County. Two million dollars ($2,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(47) Route 101; California Street off-ramp in Ventura County. Fifteen million dollars ($15,000,000). The lead applicant is the department or the Ventura County Transportation Commission.

(48) Route 101; corridor analysis and PSR to improve corridor from Route 170 (North Hollywood Freeway) to Route 23 in Thousand Oaks (Ventura County) in Los Angeles and Ventura Counties. Three million dollars ($3,000,000). The lead applicant is the department.

(49) Hollywood Intermodal Transportation Center; intermodal facility at Highland Avenue and Hawthorn Avenue in the City of Los Angeles. Ten million dollars ($10,000,000). The lead applicant is the City of Los Angeles.

(50) Route 71; complete three miles of six-lane freeway through Pomona, from Route 10 to Route 60 in Los Angeles County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(51) Route 101/405; add auxiliary lane and widen ramp through freeway interchange in Sherman Oaks in Los Angeles County. Twenty-one million dollars ($21,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(52) Route 405; add HOV and auxiliary lanes for 1 mile in West Los Angeles, from Waterford Avenue to Route 10 in Los Angeles County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(53) Automated Signal Corridors (ATSAC); improve 479 automated signals in Victory/Ventura Corridor, and add 76 new automated signals in Sepulveda Boulevard and Route 118 Corridors in Los Angeles County. Sixteen million dollars ($16,000,000). The lead applicant is the City of Los Angeles.

(54) Alameda Corridor East; build grade separations on BNSF and UPRR lines, downtown Los Angeles to Los Angeles County line in Los Angeles County. One hundred fifty million dollars ($150,000,000). The lead applicant is the San Gabriel Valley Council of Governments.

(55) Alameda Corridor East; build grade separations on UPRR line, Los Angeles County line to Colton, with rail-to-rail separation at Colton in San Bernardino County. Ninety-five million dollars ($95,000,000). The lead applicant is the San Bernadino Associated Governments.

(56) Metrolink; track and signal improvements on Metrolink; San Bernardino line in San Bernardino County. Fifteen million dollars ($15,000,000). The lead applicant is the Southern California Regional Rail Authority.

(57) Route 215; add HOV lanes through downtown San Bernardino, Route 10 to Route 30 in San Bernardino County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(58) Route 10; widen freeway to eight-lanes through Redlands, Route 30 to Ford Street in San Bernardino County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(59) Route 10; Live Oak Canyon Interchange in the City of Yucaipa in San Bernardino County. Eleven million dollars ($11,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(60) Route 15; southbound truck climbing lane at two locations in San Bernardino County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(61) Route 10; reconstruct Apache Trail Interchange east of Banning in Riverside County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(62) Route 91; add HOV lanes through downtown Riverside, Mary Street to Route 60/215 junction in Riverside County. Forty million dollars ($40,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(63) Route 60; add seven miles of HOV lanes west of Riverside, Route 15 to Valley Way in Riverside County. Twenty-five million

dollars ($25,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(64) Route 91; improve the Green River Interchange and add auxiliary lane and connector ramp east of the Green River Interchange to northbound Route 71 in Riverside County. Five million dollars ($5,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(70) Route 22; add HOV lanes on Garden Grove Freeway, Route I-405 to Route 55 in Orange County. Two hundred six million five hundred thousand dollars ($206,500,000). The lead applicant is the department or the Orange County Transportation Authority.

(73) Alameda Corridor East; (Orangethorpe Corridor) build grade separations on BNSF line, Los Angeles County line through Santa Ana Canyon in Orange County. Twenty-eight million dollars ($28,000,000). The lead applicant is the Orange County Transportation Authority.

(74) Pacific Surfliner; double track intercity rail line within San Diego County, add maintenance yard in San Diego County. Forty-seven million dollars ($47,000,000). The lead applicant is the department or North Coast Transit District.

(75) San Diego Transit Buses; acquire about 85 low-emission buses for San Diego transit service in San Diego County. Thirty million dollars ($30,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(76) Coaster Commuter Rail; acquire one new train set to expand commuter rail in San Diego County. Fourteen million dollars ($14,000,000). The lead applicant is North County Transit District.

(77) Route 94; complete environmental studies to add capacity to Route 94 corridor, downtown San Diego to Route 125 in Lemon Grove in San Diego County. Twenty million dollars ($20,000,000). The lead applicant is the department or San Diego Association of Governments.

(78) East Village access; improve access to light rail from new in-town East Village development in San Diego County. Fifteen million dollars ($15,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(79) North County Light Rail; build new 20-mile light rail line from Oceanside to Escondido in San Diego County. Eighty million dollars ($80,000,000). The lead applicant is North County Transit District.

(80) Mid-Coast Light Rail; extend Old Town light rail line 6 miles to Balboa Avenue in San Diego County. Ten million dollars ($10,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(81) San Diego Ferry; acquire low-emission high-speed ferryboat for new off-coast service between San Diego and Oceanside in San Diego

County. Five million dollars ($5,000,000). The lead applicant is the San Diego Association of Governments.

(82) Routes 5/805; reconstruct and widen freeway interchange, Genesee Avenue to Del Mar Heights Road in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(83) Route 15; add high-tech managed lane on I-15 freeway north of San Diego (Stage 1) from Route 163 to Route 78 in San Diego County. Seventy million dollars ($70,000,000). The lead applicant is the department or the San Diego Association of Governments.

(84) Route 52; build four miles of new six-lane freeway to Santee, Mission Gorge to Route 67 in San Diego County. Forty-five million dollars ($45,000,000). The lead applicant is the department or the San Diego Association of Governments.

(85) Route 56; construct approximately five miles of new freeway alignment between I-5 and I-15 from Carmel Valley to Rancho Penasquitos in the City of San Diego in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(86) Route 905; build new six-lane freeway on Otay Mesa, Route 805 to Mexico Port of Entry in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(87) Routes 94/125; build two new freeway connector ramps at Route 94/125 in Lemon Grove in San Diego County. Sixty million dollars ($60,000,000). The lead applicant is the department or the San Diego Association of Governments.

(88) Route 5; realign freeway at Virginia Avenue, approaching San Ysidro Port of Entry to Mexico in San Diego County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Diego Association of Governments.

(89) Route 99; improve Shaw Avenue Interchange in northern Fresno in Fresno County. Five million dollars ($5,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(90) Route 99; widen freeway to six lanes, Kingsburg to Selma in Fresno County. Twenty million dollars ($20,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(91) Route 180; build new expressway east of Clovis, Clovis Avenue to Temperance Avenue in Fresno County. Twenty million dollars ($20,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(92) San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line near Hanford in Kings County. Ten million dollars ($10,000,000). The lead applicant is the department.

(93) Route 180; complete environmental studies to extend Route 180 westward from Mendota to I-5 in Fresno County. Seven million dollars ($7,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(94) Route 43; widen to four-lane expressway from Kings County line to Route 99 in Selma in Fresno County. Five million dollars ($5,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(95) Route 41; add auxiliary lane/operational improvements and improve ramps at Friant Road Interchange in Fresno in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(96) Friant Road; widen to four lanes from Copper Avenue to Road 206 in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the County of Fresno.

(97) Operational improvements on Shaw Avenue, Chestnut Avenue, Willow Avenue, and Barstow Avenue near California State University at Fresno in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the Fresno County Transportation Authority. Of the amount authorized under this paragraph, the sum of two million dollars ($2,000,000) shall be transferred to the California State University at Fresno for the purposes of funding preliminary plans, working drawings, or both of those, and related program management costs for the Fresno Events Center.

(98) Peach Avenue; widen to four-lane arterial and add pedestrian overcrossings for three schools in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the City of Fresno.

(99) San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line in seven counties. Fifteen million dollars ($15,000,000). The lead applicant is the department.

(100) San Joaquin Valley Emergency Clean Air Attainment Program; incentives for the reduction of emissions from heavy-duty diesel engines operating within the eight-county San Joaquin Valley region. Twenty-five million dollars ($25,000,000). The lead applicant is the San Joaquin Valley Unified Air Pollution Control District.

(101) Santa Cruz Metropolitan Transit District bus fleet; acquisition of low-emission buses. Three million dollars ($3,000,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(102) Route 101 access; State Street smart corridor Advanced Traffic Corridor System (ATSC) technology in Santa Barbara County. One

million three hundred thousand dollars ($1,300,000). The lead applicant is the City of Santa Barbara.

(103) Route 99; improve interchange at Seventh Standard Road, north of Bakersfield in Kern County. Eight million dollars ($8,000,000). The lead applicant is the department or Kern Council of Governments.

(104) Route 99; build seven miles of new six-lane freeway south of Merced, Buchanan Hollow Road to Healey Road in Merced County. Five million dollars ($5,000,000). The lead applicant is the department or the Merced County Association of Governments.

(105) Route 99; build two miles of new six-lane freeway, Madera County line to Buchanan Hollow Road in Merced County. Five million dollars ($5,000,000). The lead applicant is the department or the Merced County Association of Governments.

(106) UC Merced access; build new arterial Campus Parkway to new UC Merced campus in Merced County. Twenty-three million dollars ($23,000,000). The lead applicant is the County of Merced.

(107) Route 205; widen freeway to six lanes, Tracy to I-5 in San Joaquin County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Joaquin Council of Governments.

(108) Route 5; add northbound lane to freeway through Mossdale ''Y'', Route 205 to Route 120 in San Joaquin County. Seven million dollars ($7,000,000). The lead applicant is the department or the San Joaquin Council of Governments.

(109) Route 132; build four miles of new four-lane expressway in Modesto from Dakota Avenue to Route 99 and improve Route 99 Interchange in Stanislaus County. Twelve million dollars ($12,000,000). The lead applicant is the department or the Stanislaus Council of Governments.

(110) Route 132; build 3.5 miles of new four-lane expressway from Route 33 to the San Joaquin county line in Stanislaus and San Joaquin Counties. Two million dollars ($2,000,000). The lead applicant is the department or the Stanislaus Council of Governments.

(111) Route 198; build 10 miles of new four-lane expressway from Route 99 to Hanford in Kings and Tulare Counties. Fourteen million dollars ($14,000,000). The lead applicant is the department or the Kings County Association of Governments.

(112) Jersey Avenue; widen from 170' Street to 18th Street in Kings County. One million five hundred thousand dollars ($1,500,000). The lead applicant is Kings County.

(113) Route 46; widen to four lanes for 33 miles from Route 5 to San Luis Obispo County line in Kern County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Kern Council of Governments.

(114) Route 65; add four passing lanes, intersection improvement, and conduct environmental studies for ultimate widening to four lanes from Route 99 in Bakersfield to Tulare County line in Kern County. Twelve million dollars ($12,000,000). The lead applicant is the department or the Kern Council of Governments.

(115) South Line Light Rail; extend South Line three miles towards Elk Grove, from Meadowview Road to Calvine Road in Sacramento County. Seventy million dollars ($70,000,000). The lead applicant is the Sacramento Regional Transit District.

(116) Route 80 Light Rail Corridor; double-track Route 80 light rail line for express service in Sacramento County. Twenty-five million dollars ($25,000,000). The lead applicant is the Sacramento Regional Transit District.

(117) Folsom Light Rail; extend Folsom light rail line six miles to Iron Point Road and add three stations in Sacramento County. Twenty million dollars ($20,000,000). The lead applicant is the Sacramento Regional Transit District.

(118) Sacramento Emergency Clean Air/Transportation Plan (SECAT); incentive for the reduction of emissions from heavy-duty diesel engines operating within the Sacramento region. Fifty million dollars ($50,000,000). The lead applicant is the Sacramento Area Council of Governments.

(119) Convert Sacramento Regional Transit bus fleet to low emission; acquire approximately 50 replacement low-emission buses for service in Sacramento and Yolo Counties. Nineteen million dollars ($19,000,000). The lead applicant is the Sacramento Area Council of Governments and the Yolo Bus Authority.

(120) Yuba Airport facility runway extension and improvements to reduce congestion. One million five hundred thousand dollars ($1,500,000). The lead applicant is the County of Yuba.

(121) Metropolitan Bakersfield System Study; to reduce congestion in the City of Bakersfield. Three hundred fifty thousand dollars ($350,000). The lead applicant is the Kern County Council of Governments.

(122) Route 65; widening project from 7th Standard Road to Route 190 in Porterville. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the County of Tulare.

(123) Oceanside Transit Center; parking structure. One million five hundred thousand dollars ($1,500,000). The lead applicant is the City of Oceanside.

(125) Route 57; environmental impact report and study for expansion project. Five million dollars ($5,000,000). The lead applicant is the Orange County Transportation Authority.

(126) Route 50/Watt Avenue interchange; widening of overcrossing and modifications to interchange. Seven million dollars ($7,000,000). The lead applicant is the County of Sacramento.

(127) Route 85/Route 87; interchange completion; addition of two direct connectors for southbound Route 85 to northbound Route 87 and southbound Route 87 to northbound Route 85. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of San Jose.

(128) Airport Road; reconstruction and intersection improvement project. Three million dollars ($3,000,000). The lead applicant is the County of Shasta.

(129) Route 62; utility undergrounding project in right-of-way of Route 62. Three million two hundred thousand dollars ($3,200,000). The lead applicant is the Town of Yucca Valley.

(130) Route 22; connector and widening of interchange with I-405 to reduce congestion. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of Garden Grove.

(131) Bear Valley Road; closure project and Kasota Road, Route 18 frontage; redesign for safety purposes. Eight hundred thousand dollars ($800,000). The lead applicant is the Town of Apple Valley.

(132) Fairway Drive; grade separation at Union Pacific railroad project in San Gabriel Valley. Seven million dollars ($7,000,000). The lead applicant is the County of Los Angeles.

(133) Feasibility studies for grade separation projects for Union Pacific Railroad at Elk Grove Boulevard and Bond Road. One hundred fifty thousand dollars ($150,000). The lead applicant is the City of Elk Grove.

(134) Route 50/Sunrise Boulevard; interchange modifications. Three million dollars ($3,000,000). The lead applicant is the County of Sacramento.

(135) Route 99/Sheldon Road; interchange project; reconstruction and expansion. Three million dollars ($3,000,000). The lead applicant is the County of Sacramento.

(136) Avenue S; widening between Route 14 and Route 138. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of Palmdale.

(137) Fox Field Industrial Corridor; gateway improvements; widening of Route 14/Avenue H overcrossing. Five million five hundred thousand dollars ($5,500,000). The lead applicant is the City of Lancaster.

(138) Cross Valley Rail; upgrade track from Visalia to Huron. Seven million dollars ($7,000,000). The lead applicant is the Cross Valley Rail Corridor Joint Powers Authority.

(139) Balboa Park BART Station; phase I expansion. Six million dollars ($6,000,000). The lead applicant is the San Francisco Bay Area Rapid Transit District.

(140) City of Goshen; overpass for Route 99. One million five hundred thousand dollars ($1,500,000). The lead applicant is the department.

(141) Union City; pedestrian bridge over Union Pacific rail lines. Two million dollars ($2,000,000). The lead applicant is the City of Union City.

(142) West Hollywood; repair, maintenance, and mitigation of Santa Monica Boulevard. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of West Hollywood.

(143) Capital Corridor; expand intercity rail service. One million nine hundred thousand dollars ($1,900,000). The lead applicant is the Capital Corridor Joint Powers Authority.

(144) Seismic retrofit of the national landmark Golden Gate Bridge. Fifty million dollars ($50,000,000). The lead applicant is the Golden Gate Bridge, Highway and Transportation District.

(145) Construction of a new siding in Sun Valley between Sheldon Street and Sunland Boulevard. Six million five hundred thousand dollars ($6,500,000). The lead applicant is the Southern California Regional Rail Authority.

(146) Construction of Palm Drive Interchange. Ten million dollars ($10,000,000). The lead applicant is the Coachella Valley Association of Governments.

(147) Project development work for the reconstruction of the I-8/Imperial Avenue interchange. Seven million dollars ($7,000,000). The lead applicant is the Imperial Valley Association of Governments.

(148) Route 98; widening of 8 miles between Route 111 and Route 7 from 2 lanes to 4 lanes. Ten million dollars ($10,000,000). The lead applicant is the department.

(149) Purchase of low-emission buses for express service on Route 17. Three million seven hundred fifty thousand dollars ($3,750,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(150) Renovation or rehabilitation of Santa Cruz Metro Center. One million dollars ($1,000,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(151) Purchase of 5 alternative fuel buses for the Pasadena Area Rapid Transit System. One million one hundred thousand dollars ($1,100,000). The lead applicant is the Pasadena Area Rapid Transit System.

(152) Pasadena Blue Line transit-oriented mixed-use development. One million five hundred thousand dollars ($1,500,000). The lead

applicant is the Los Angeles County Metropolitan Transportation Authority of the City of South Pasadena.

(153) Pasadena Blue Line utility relocation. Five hundred fifty thousand dollars ($550,000). The lead applicant is the City of South Pasadena.

(154) Route 135/I-5 interchange study. One hundred thousand dollars ($100,000). The lead applicant is the department.

(155) City of Chula Vista; (A) at its option, to acquire right-of-way, build, and operate a 10-mile limited access toll facility from San Miguel Road to Otay Mesa Road. Eight million six hundred thousand dollars ($8,600,000). (B) Of the amount specified, five hundred thousand dollars ($500,000) shall be immediately available to the City of Chula Vista for the purpose of conducting a due diligence review, including an independent appraisal of the feasibility of acquisition by a public agency of the Route 125 franchise agreement authorized under Section 143 of the Streets and Highways Code. The lead applicant is the City of Chula Vista.

(156) Seismic retrofit and core segment improvements for the Bay Area Rapid Transit system. Twenty million dollars ($20,000,000). The lead applicant is the San Francisco Bay Area Rapid Transit District.

(157) Route 12; Congestion relief improvements from Route 29 to I-80 through Jamison Canyon. Seven million dollars ($7,000,000). The lead applicant is the department.

(158) Remodel the intersection of Olympic Boulevard and Lemon Street and install a new traffic signal. Two million dollars ($2,000,000). The lead applicant is the City of Los Angeles.

(b) As used in this section ''route'' is a state highway route as identified in Article 3 (commencing with Section 300) of Chapter 2 of Division 1 of the Streets and Highways Code.

Article 6. Miscellaneous Provisions

14556.50. The grant authorized under paragraph (32) of subdivision (a) of Section 14556.40 shall be allocated as follows:

(a) (1) Two hundred fifty thousand dollars ($250,000) to defray the administrative costs of the North Coast Railroad Authority, allocated directly to the authority immediately upon enactment of the Budget Act of 2000.

(2) Two hundred fifty thousand dollars ($250,000) to defray the administrative costs of the authority, allocated directly to the authority within six months from the date of enactment of the Budget Act of 2000.

(3) Five hundred thousand dollars ($500,000) to defray the administrative costs of the authority, allocated to the authority as directed by the commission, within one year from the date of enactment

of the Budget Act of 2000, if the commission determines that additional funding is needed by the authority for administrative costs.

(b) Six hundred thousand dollars ($600,000) to fund completion of the authority's rail line from Lombard to Willits, allocated directly to the authority immediately upon enactment of the Budget Act of 2000.

(c) One million dollars ($1,000,000) to fund completion of the authority's rail line from Willits to Arcata, allocated to the authority as directed by the commission, within four months from the date of enactment of the Budget Act of 2000.

(d) Five million dollars ($5,000,000) to fund the upgrade of the authority's rail line to Class II or III status, allocated to the authority as directed by the commission.

(e) Four million one hundred thousand dollars ($4,100,000) for environmental remediation projects, allocated to the authority as directed by the commission, within four months from the date of enactment of the Budget Act of 2000.

(f) Ten million dollars ($10,000,000) for the authority's debt reduction, allocated to the authority as directed by the commission, within four months from the date of enactment of the Budget Act of 2000.

(g) One million eight hundred thousand dollars ($1,800,000) for use by the authority as local match funds, allocated to the authority as directed by the commission.

(h) Five million five hundred thousand dollars ($5,500,000) to fund repayment of the authority's federal loan obligations, allocated to the authority as directed by the commission.

(i) Thirty-one million dollars ($31,000,000) for long-term stabilization projects, allocated to the authority as directed by the commission.

14556.52. Before grants from the fund may be allocated to any of the three Alameda Corridor East Projects identified in paragraphs (54), (55), and (73) of subdivision (a) of Section 14556.40, a report shall be completed and submitted to the commission within one year of the operative date of this section. The report shall be prepared by a team consisting of the lead applicants for those projects. The report shall address regional mobility needs as well as regional, state, and national economic impacts of the corridor. The team shall also evaluate and assess the technical merits, determine the phasing and delivery schedule, and identify a financing strategy for the proposed corridor improvements. The commission shall allocate some or all of the available funds to one or more of the lead applicants for specific projects within the corridor that meet the requirements under this chapter.

SEC. 7. Section 65080 of the Government Code is amended to read:

65080. (a) Each transportation planning agency designated under Section 29532 or 29532.1 shall prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services. The plan shall be action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials. The regional transportation plan shall consider factors specified in Section 134 of Title 23 of the United States Code. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.

(b) The regional transportation plan shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall be consistent with the funding estimates of the financial element.

(2) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all projects proposed for development during the 20-year life of the plan.

The action element shall consider congestion management programming activities carried out within the region.

(3) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain recommendations for allocation of funds. A county transportation commission created pursuant to Section 130000 of the Public Utilities Code shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(c) Each transportation planning agency shall adopt and submit, every three years beginning by September 1, 2001, an updated regional transportation plan to the California Transportation Commission and the Department of Transportation. The plan shall be consistent with federal planning and programming requirements. A transportation planning agency that does not contain an urbanized area may at its option adopt and submit a regional transportation plan once every four years

beginning by September 1, 2001. Prior to adoption of the regional transportation plan, a public hearing shall be held, after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061.

SEC. 8. Section 65082 of the Government Code is amended to read:

65082. (a) (1) A five-year regional transportation improvement program shall be prepared, adopted, and submitted to the California Transportation Commission on or before December 15 of each odd-numbered year thereafter, updated every two years, pursuant to Sections 65080 and 65080.5 and the guidelines adopted pursuant to Section 14530.1, to include regional transportation improvement projects and programs proposed to be funded, in whole or in part, in the state transportation improvement program.

(2) Major projects shall include current costs updated as of November 1 of the year of submittal and escalated to the appropriate year, and be listed by relative priority, taking into account need, delivery milestone dates, as defined in Section 14525.5, and the availability of funding.

(b) Except for those counties that do not prepare a congestion management program pursuant to Section 65088.3, congestion management programs adopted pursuant to Section 65089 shall be incorporated into the regional transportation improvement program submitted to the commission by December 15 of each odd-numbered year.

(c) Local projects not included in a congestion management program shall not be included in the regional transportation improvement program. Projects and programs adopted pursuant to subdivision (a) shall be consistent with the capital improvement program adopted pursuant to paragraph (5) of subdivision (b) of Section 65089, and the guidelines adopted pursuant to Section 14530.1.

(d) Other projects may be included in the regional transportation improvement program if listed separately.

(e) Unless a county not containing urbanized areas of over 50,000 population notifies the Department of Transportation by July 1 that it intends to prepare a regional transportation improvement program for that county, the department shall, in consultation with the affected local agencies, prepare the program for all counties for which it prepares a regional transportation plan.

(f) The requirements for incorporating a congestion management program into a regional transportation improvement program specified in this section do not apply in those counties that do not prepare a congestion management program in accordance with Section 65088.3.

(g) The regional transportation improvement program may include a reserve of county shares for providing funds in order to match federal funds.

SEC. 9. Section 65083 of the Government Code is amended to read:

65083. As part of implementation of the demonstration program established pursuant to Section 14045 of the Government Code, the regional transportation planning agency preparing the five-year regional transportation improvement program pursuant to Section 65082 shall consider those exclusive mass transit guideway projects where the applicant and the local entity responsible for land use decisions have entered into a binding agreement to promote high density residential development within one-half mile of a mass transit guideway station. Any project selected by the agency that is located in a demonstration site shall be considered for inclusion in the regional transportation improvement program. This section shall not preclude the agency from applying the criteria for making awards that may be required or permitted pursuant to other provisions of law.

SEC. 10. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be

transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than $4^3/_4$ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than $4^3/_4$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than $4^3/_4$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(10) An amount equal to all revenues, less refunds, derived under this part at a $4^3/_4$-percent rate for the period between January 1, 1994, and July 1, 1994, from the increase in sales and use tax revenue attributable to the increase in the rate of the federal motor vehicle fuel tax between January 1, 1993, and the rate in effect on January 1, 1994, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and an amount equal to that amount, but not

exceeding seven million five hundred thousand dollars ($7,500,000) shall be transferred from the Retail Sales Tax Fund to the Small Business Expansion Fund created by Article 5 (commencing with Section 14030) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code.

(11) All revenues, less refunds, derived under this part at the 5-percent rate, resulting from the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)) on motor vehicle fuel, less the amount transferred pursuant to paragraph (2) of subdivision (a), shall be transferred quarterly to the Traffic Congestion Relief Fund.

(12) All revenue, less refunds, derived under this part at the 5-percent rate, resulting from the rate of federal motor vehicle fuel tax imposed pursuant to Section 4081 of Title 26 of the Internal Revenue Code, shall be transferred quarterly to the Traffic Congestion Relief Fund.

(13) All revenue, less refunds, derived under this part at the 5-percent rate, with respect to the sale, storage, use, or other consumption of motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), other than that transferred pursuant to paragraph (1), (2), (11), or (12) of subdivision (a), shall be transferred quarterly to the Traffic Congestion Relief Fund. In no event shall the transfer to the Traffic Congestion Relief Fund pursuant to paragraph (11), (12), and (13) of subdivision (a) of this section, exceed one hundred twenty-five million dollars ($125,000,000) in any quarter.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), (3), (11), (12), and (13) of subdivision (a) shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Transportation Planning and Development Account as a trust fund pursuant to subdivision (a), the Controller may use the Transportation Planning and Development Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

(f) The transfers authorized by paragraphs (11), (12), and (13) of subdivision (a) shall be operative for the 2000–01 fiscal year only.

(g) This section shall remain in effect only until June 30, 2001, and as of that date is repealed, unless a later enacted statute that is enacted before June 30, 2001, deletes or extends that date.

SEC. 11. Section 7102 is added to the Revenue and Taxation Code, to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate, resulting from increasing, after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than $4^3/_4$ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than $4^3/_4$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property

other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than $4^3/_4$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(10) An amount equal to all revenues, less refunds, derived under this part at a $4^3/_4$ percent rate for the period between January 1, 1994, and July 1, 1994, from the increase in sales and use tax revenue attributable to the increase in the rate of the federal motor vehicle fuel tax between January 1, 1993, and the rate in effect on January 1, 1994, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and an amount equal to that amount, but not exceeding seven million five hundred thousand dollars ($7,500,000) shall be transferred from the Retail Sales Tax Fund to the Small Business Expansion Fund created by Article 5 (commencing with Section 14030) of Chapter 1 of Part 5 of Division 3 of Title I of the Corporations Code.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Transportation Planning and Development Account as a trust fund pursuant to subdivision (a), the Controller may use the Transportation Planning and Development Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

(f) This section shall become operative on June 30, 2001.

SEC 11.5. Section 7104 is added to the Revenue and Taxation Code, to read:

7104. (a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) The Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter during the period commencing on July 1, 2001, and ending on June 30, 2006, the Controller shall make all of the following transfers from the fund in the following order:

(1) To the Transportation Congestion Relief Fund created in the State Treasury by Section 14556.5 of the Government Code, the sum of one hundred sixty-nine million five hundred thousand dollars ($169,500,000), for a total transfer of three billion three hundred ninety million dollars ($3,390,000,000).

(2) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the amount remaining after the transfer required under paragraph (1). Funds transferred under this paragraph shall be appropriated by the Legislature as follows:

(A) To the Department of Transportation, 50 percent for purposes of subdivision (a) or (b) of Section 99315 of the Public Utilities Code.

(B) To the Controller, 25 percent for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code.

(C) To the Controller, 25 percent for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code.

(3) To the Department of Transportation for programming for transportation capital improvement projects subject to all of the provisions governing the State Transportation Improvement Program, 40 percent of the amount remaining after the transfer required under paragraph (1).

(4) To the counties, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), in accordance with the following formulas:

(A) Seventy-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(5) To cities, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1). Fund transferred under this paragraph shall be apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under paragraphs (4) and (5) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under this section shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) ''Maintenance'' means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) ''Reconstruction'' includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) ''Storm damage repair'' is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to paragraph (4) or (5) of subdivision (c).

(2) In order to receive any allocation pursuant to paragraph (4) or (5) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For purposes of paragraph (1), the Controller may request fiscal data from cities and counties, in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(4) At the conclusion of each fiscal year during which a city or county receives funding under paragraph (4) or (5) of subdivision (c), the Controller shall verify the city's or county's compliance with paragraph (1). Any city or county that has not complied with paragraph (1) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (1) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(5) If a city or county fails to comply with the requirements of paragraph (1) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (1).

(6) The allocation made under paragraph (4) or (5) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in paragraph (4) or (5) of subdivision (c).

(g) The Los Angeles County Metropolitan Transportation Authority shall give first priority for using its share of the funds made available under subparagraphs (B) and (C) of paragraph (2) of subdivision (c) to providing the levels of bus service mandated under the consent decree entered into by the authority on October 29, 1996, in the case of Labor/Community Strategy Center, et al. v. Los Angeles County Metropolitan Transportation Authority.

(h) This section shall become inoperative on June 30, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 10754.2 is added to the Revenue and Taxation Code, to read:

10754.2. Notwithstanding any other provision law, any General Fund forecast of revenues used for purposes of paragraphs (2) to (15), inclusive, of subdivision (b) of Section 10754 may not include any revenue loss due to the amendments to Section 7102 made by the act adding this section. Notwithstanding paragraph (4) of subdivision (c) of Section 10754 any revenue loss due to the amendments to Section 7102 made by Section 10 of the act adding this section may not be used by the Department of Finance to modify the offsets set forth in paragraphs (2) to (15), inclusive, of subdivision (b) of Section 10754.

SEC. 13. Section 164.6 of the Streets and Highways Code is amended to read:

164.6. (a) The department shall prepare a 10-year state rehabilitation plan for the rehabilitation and reconstruction, or the combination thereof, of all state highways and bridges owned by the state. The plan shall identify all rehabilitation needs for the 10-year period beginning on July 1, 1998, and ending on June 30, 2008, and shall include a schedule of improvements to complete all needed rehabilitation not later than June 30, 2008. The plan shall be updated every two years beginning in 2000. The plan shall include specific milestones and quantifiable accomplishments, such as miles of highways to be repaved and number of bridges to be retrofitted. The plan shall contain strategies to control cost and improve the efficiency of the program, and include a cost estimate for at least the first five years of the program.

(b) The plan shall be submitted to the commission for review and comments and shall be transmitted to the Governor and the Legislature not later than May 1, 1998.

(c) The plan shall be the basis for the department's budget request and for the adoption of fund estimates pursuant to Section 163.

SEC. 14. Section 182.6 of the Streets and Highways Code is amended to read:

182.6. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to that portion of subsection (b)(3) of Section 104, subsections (a) and (c) of Section 157, and subsection (d) of Section 160 of Title 23 of the United States Code which is allocated within the state subject to subsection (d)(3) of Section 133 of that code. These funds shall be known as the regional surface transportation program funds. The department, the transportation planning agencies, the county transportation commissions, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The regional surface transportation program funds shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency designated pursuant to Section 29532 of the Government Code. The funds shall be apportioned in the manner and in accordance with the formula set forth in subsection (d)(3) of Section 133 of Title 23 of the United States Code, except that the apportionment shall be among all areas of the state. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all regional surface transportation program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population.

In the Monterey Bay region, all regional surface transportation program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990–91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990–91 fiscal year. These funds shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year average of allocations. Projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

(2) An amount not less than 110 percent of the amount that the county was apportioned under the federal-aid secondary program in federal fiscal year 1990–91, for use by that county.

(e) The department shall notify each metropolitan planning organization, county transportation commission, and transportation planning agency receiving an apportionment under this section, as soon as possible each year, of the amount of obligation authority estimated to be available for program purposes. The metropolitan planning organization and transportation planning agency, in cooperation with the department, congestion management agencies, cities, counties, and affected transit operators, shall select and program projects in conformance with federal law. The metropolitan planning organization and transportation planning agency shall submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program not later than August 1 of each even-numbered year beginning in 1994.

(f) Not later than July 1 of each year, the metropolitan planning organizations, and the regional transportation planning agencies,

receiving obligational authority under this article shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will be obligated by the end of the current federal fiscal year. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organizations or regional transportation planning agencies relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsections (d)(3) and (f) of Section 133 of Title 23 of the United States Code.

(g) A regional transportation planning agency that is not designated as, nor represented by, a metropolitan planning organization with an urbanized area population greater than 200,000 pursuant to the 1990 federal census may exchange its annual apportionment received pursuant to this section on a dollar-for-dollar basis for nonfederal State Highway Account funds, which shall be apportioned in accordance with subdivision (d).

(h) (1) If a regional transportation planning agency described in subdivision (g) does not elect to exchange its annual apportionment, a county located within the boundaries of that regional transportation planning agency may elect to exchange its annual apportionment received pursuant to paragraph (2) of subdivision (d) for nonfederal State Highway Account funds.

(2) A county not included in a regional transportation planning agency described in subdivision (g), whose apportionment pursuant to paragraph (2) of subdivision (d) was less than 1 percent of the total amount apportioned to all counties in the state may exchange its apportionment for nonfederal State Highway Account funds. If the apportionment to the county was more than $3^1/_2$ percent of the total apportioned to all counties in the state, it may exchange that portion of its apportionment in excess of $3^1/_2$ percent for nonfederal State Highway Account funds. Exchange funds received by a county pursuant to this section may be used for any transportation purpose.

(i) The department shall be responsible for closely monitoring the use of federal transportation funds, including regional surface transportation program funds to assure full and timely use. The department shall

prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(j) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(k) Within six months of the date of notification required under subdivision (j), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(*l*) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (k), prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(m) Notwithstanding subdivisions (g) and (h), regional surface transportation program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration.

SEC. 15. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to subsection (b)(2) of Section 104 of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality program funds and shall be expended in accordance with Section 19 of Title 3 of the United States Code. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality program funds, including any funds to which subsection (c) of Section 110 of Title 23 of the United States Code, as added by subdivision (a) of Section 1310 of Public Law 105-178, applies, shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency

established by Section 29532 of the Government Code. The funds shall be apportioned to metropolitan planning organizations and transportation planning agencies responsible for air quality conformity determinations in federally designated air quality nonattainment and maintenance areas within the state in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Notwithstanding subdivision (b), where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all congestion mitigation and air quality program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population within the federally designated air quality nonattainment and maintenance areas after first apportioning to the nonattainment and maintenance areas in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code.

In the Monterey Bay region, all congestion mitigation and air quality improvement program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The department shall notify each metropolitan planning organization, transportation planning agency, and county transportation commission receiving an apportionment under this section, as soon as possible each year, of the amount of obligational authority estimated to be available for expenditure from the federal apportionment. The metropolitan planning organizations, transportation planning agencies, and county transportation commissions, in cooperation with the department, congestion management agencies, cities and counties, and affected transit operators, shall select and program projects in conformance with federal law. Each metropolitan planning organization and transportation planning agency shall, not later than August 1 of each even-numbered year beginning in 1994, submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program.

(e) Not later than July 1 of each year, the metropolitan planning organizations and the regional transportation planning agencies receiving obligational authority under this section, shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal

year, including, but not limited to, a list of projects that will use the obligational authority. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organization or transportation planning agency relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsection (f) of Section 133 of Title 23 of the United States Code.

(f) The department shall be responsible for closely monitoring the use of federal transportation funds, including congestion management and air quality funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(g) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(h) Within six months of the date of notification required under subdivision (g), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(i) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (h) above, prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(j) Congestion mitigation and air quality program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration.

SEC. 16. Section 182.8 is added to the Streets and Highways Code, to read:

182.8. (a) It is the intent of the Legislature that this program help increase flexibility in the use of state and federal funding to complete

transportation improvements. The ability to exchange certain federal funds for state funds may enhance that flexibility. However, it is the intent of the Legislature that the commission make these exchanges only if the exchanges do not compromise other state funded projects or activities.

(b) The commission shall propose guidelines and procedures to implement this section, hold a public hearing on the guidelines, and adopt the guidelines on or before February 1, 2001. The commission shall begin the exchange program on or before February 1, 2001, if it determines that funding is available for that purpose. The commission may amend its guidelines after holding a public hearing, but may not amend the guidelines between the time it notifies regional transportation planning agencies of the amount of state funds available for exchange and its approval of projects for exchange in any given year.

(c) On or before January 5 of each year, the department shall report to the commission the amounts apportioned as federal local assistance in the regional surface transportation and congestion mitigation and air quality programs for the year, the Federal Obligation Authority for the year, and the amount of federal funds it expects to be able to obligate for work on projects in all programs on or before September 30 of that year, and the commission, in cooperation with the department, shall determine the amount of state funds from the Traffic Congestion Relief Fund that can be made available for exchange under this section. If the release of federal apportionments and obligational authority is delayed beyond November 1 in any year, all the dates specified in this section shall be extended by an equivalent time, however, all federal funds exchanged shall be obligated on or before September 30 of the current federal fiscal year.

(d) The commission may exchange funds under this section if it determines all of the following:

(1) Adequate state funds are available to accomplish the exchange without putting at risk other transportation activities or projects needing state funds.

(2) Any exchange will be consistent with full implementation of the Traffic Congestion Relief Act of 2000.

(3) Federal funds received in exchange can be readily and effectively used on other projects or activities by the state during the federal fiscal year.

(e) After making the determinations set forth in subdivision (d) the commission may offer to exchange state funds from the Traffic Congestion Relief Fund for federal local assistance funds, subject to the limits imposed under this section. For the purpose of this section, ''federal local assistance'' funds means regional surface transportation program or congestion mitigation and air quality program

apportionments received that federal fiscal year and apportioned as local assistance pursuant to Sections 182.6 and 182.7.

(f) Not later than February 1 of each year, the commission shall notify the regional transportation planning agencies of the amount of state funds available for exchange for federal local assistance funds for that year. The maximum amount of state funds to be exchanged may not exceed 50 percent of the total amount of federal regional surface transportation program and congestion mitigation and air quality program funds apportioned for the current fiscal year as local assistance pursuant to subdivision (b) of Section 182.6 and subdivision (b) of Section 182.7, exclusive of state funds that may be exchanged pursuant to subdivision (g) of Section 182.6, paragraphs (1) and (2) of subdivision (h) of Section 182.6, or Section 182.7. Federal funds exchanged under this program shall be available for projects identified by the commission as ready to obligate during determination of the amount available for exchange. In no event will the amount of exchange exceed the department's ability to obligate all federal funds during the current federal fiscal year. The commission may not exchange state funds for regional surface transportation program funds required to be spent for transportation enhancements. This section does not affect the amount of exchange under subdivision (g) of Sections 182.6, or paragraphs (1) and (2) of subdivision (h) of Section 182.6.

(g) Regional transportation planning agencies may submit applications for exchange of funds to the commission not later than March 15 of each year. Applications shall identify the proposed use for the exchange funds, including project descriptions, cost estimates, scopes of work, schedules for construction, schedules for expenditures, and any other information required by the commission. The commission may require a region to identify priorities among applications it submits.

(h) If the commission receives applications for more exchange funds than the amount of state funds available, the commission shall select projects for exchange up to the amount of state funds available. The commission shall explain the criteria it uses to select projects, which shall include, but are not limited to, all of the following:

(1) Removal of all federal funds from projects.

(2) Assessment of projects that would benefit most from removal of federal funding because of size, type, location, agency capability, features, or federal requirements.

(3) Approximate relative equity within the program among regions in receiving state exchange funds over a multiyear period.

(i) The commission may exchange state funds for federal local assistance funds with agencies requesting exchanges. Agencies wishing to exchange their federal funds shall provide apportionments and obligation authority at the same rate the Federal Highway

Administration distributes obligation authority. Agencies exchanging federal funds shall receive funds equal to 90 percent of the obligation authority exchanged. The commission shall approve exchanges of funds not later than its second regularly scheduled meeting following March 15 each year.

(j) The commission shall determine an exchange payment schedule based on expenditure plans. The commission may suspend exchange payment schedules if it determines projects are not proceeding.

(k) For financial display and reporting purposes, obligational authority received pursuant to this section shall be reported as a revenue accrual in the Traffic Congestion Relief Fund in the year in which the exchange is approved under subdivision (i). Funds approved for exchange shall be accrued as expenditures in the year in which the exchange is approved. Notwithstanding Section 16362 of the Government Code, the department shall immediately deposit into the Traffic Congestion Relief Funds all moneys reimbursed by the Federal Highway Administration, as a result of expending the exchanged obligation authority.

(*l*) State funds provided through an exchange under this section must be encumbered within one year and expended within three years.

(m) Upon adoption of its implementing guidelines, the commission may consider requests for exchanges under this section.

(n) Regional and local agencies shall use state exchange funds only for projects or purposes for which the federal local assistance funds being exchanged were originally intended, and may not supplant local funds on projects in order that those local funds can subsequently be used for nontransportation purposes. The commission may ask agencies to certify that they are meeting this requirement. Agencies not meeting this maintenance of effort requirement may not be allowed to participate in the next exchange cycle.

(o) The commission shall include a summary of exchanges made pursuant to this section in its annual report to the Governor and Legislature pursuant to Section 14556.36, including an assessment of progress in implementing projects funded by exchanges, and discussion of issues and recommendations related to implementation of the exchange program.

(p) Not later than the effective date of the reauthorization of the federal surface transportation act, the commission shall submit a report to the Governor and the Legislature recommending any changes in the exchange program necessitated by that reauthorization.

SEC. 17. Section 183.1 is added to the Streets and Highways Code, to read:

183.1. (a) Notwithstanding subdivision (a) of Section 182 or any other provision of law, money deposited into the account that is not

subject to Article XIX of the California Constitution, including, but not limited to, money that is derived from the sale of documents, charges for miscellaneous services to the public, condemnation deposits fund investments, rental of state property, or any other miscellaneous uses of property or money, may be used for any transportation purpose authorized by statute, upon appropriation by the Legislature or, after transfer to another fund, upon appropriation by the Legislature from that fund.

(b) Not later than November 1 of each year, based on prior year financial statements, the State Controller shall transfer the funds identified in subdivision (a) for the prior fiscal year to the Public Transportation Account in the State Transportation Fund.

SEC. 18. Section 2182 is added to the Streets and Highways Code, to read:

2182. (a) The funds appropriated from the Traffic Congestion Relief Fund pursuant to Section 21 of the act that added this section shall be allocated by the Controller to cities and counties for street and road maintenance, rehabilitation, and reconstruction. Four hundred million dollars ($400,000,000) shall be allocated to the counties, including a city and county, and cities, including a city and county, as follows:

(1) Fifty percent to the counties, including a city and county, in accordance with the following formulas:

(A) Seventy-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(2) Fifty percent to cities, including a city and county, apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state.

(b) Funds received under this section shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(c) Funds apportioned to a city or county under this section shall be used only for street and highway pavement maintenance, rehabilitation, and reconstruction of necessary associated facilities such as drainage and traffic control devices. Rehabilitation or reconstruction may include widening necessary to bring the roadway width to the desirable minimum pavement width consistent with accepted design standards for local streets and roads, but does not include widening or increasing the traffic capacity of a street or road.

SEC. 19. Section 2182.1 is added to the Streets and Highways Code, to read:

2182.1. (a) The Legislature finds and declares that it intends cities and counties to use the funds made available from Section 21 of the act that added this section to supplement existing local revenues being used for maintenance and rehabilitation of local streets and roads. Cities and counties shall maintain their existing commitment of local funds for maintenance and rehabilitation of local streets and roads in order to remain eligible for allocation and expenditure of the additional four hundred million dollars ($400,000,000) made available by Section 21 of the act that added this section.

(b) In order to receive any allocation pursuant to Section 2182, the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151. For purposes of this subdivision, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city's or county's annual general fund expenditures.

(c) For purposes of subdivision (a), the Controller may request fiscal data from cities and counties, in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120

days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(d) At the conclusion of each fiscal year during which a city or county receives funding under Section 2182, the Controller shall verify the city's or county's compliance with subdivision (a). Any city or county that has not complied with subdivision (a) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with subdivision (a) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(e) If a city or county fails to comply with the requirements of subdivision (a) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with subdivision (a).

(f) The allocation made under Section 2182 shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in Section 2182.

SEC. 20. The sum of one billion five hundred million dollars ($1,500,000,000) is hereby appropriated from the General Fund to the Traffic Congestion Relief Fund for the purposes of Section 14556.5 of the Government Code.

SEC. 21. The sum of four hundred million dollars ($400,000,000) is hereby appropriated from the Traffic Congestion Relief Fund to the Controller for allocation to cities and counties, including a city and county, for the purposes of Section 2182 of the Streets and Highways Code.

SEC. 22. The sum of five million dollars ($5,000,000) is hereby appropriated from the Traffic Congestion Relief Fund to the High-Speed Rail Authority for the purpose of commencing preliminary environmental documentation for the implementation of high-speed rail service in California.

SEC. 23. Notwithstanding any other provision of law, when making the calculation as required by subdivision (b) of Section 8 of Article XVI of the California Constitution, ''General Fund revenues that may be appropriated pursuant to Article XIIIB'' as used in paragraphs (1) and (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, shall include the amounts of the transfer specified under paragraphs (11), (12), and (13) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as amended by Section 10 of this act. For

the 2000–01 fiscal year, the Director of Finance shall adjust the amount required to be allocated to school districts and community college districts to ensure that paragraphs (11), (12), and (13) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as amended by Section 10 of this act, do not diminish the funding level for school districts and community college districts to a funding level below that required absent the transfer authorized by paragraphs (11), (12), and (13) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as amended by Section 10 of this act.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act creates a significant program designed to reduce traffic congestion, which will improve the public's health and safety. In order for the program authorized by this act to be implemented as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 92

An act to add Section 14556.40 to the Government Code, relating to transportation.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

I am signing Senate Bill No. 406, which corrects certain provisions of AB 2928, a comprehensive transportation funding measure which incorporates most of the proposals I made for almost $5 billion in congestion relief, transportation system connectivity and goods movement projects. This bill contains the same list of project funding allocations, with a few modifications, as is contained in AB 2928. I am taking identical veto actions on projects in this bill that I took when signing AB 2928.

I am reducing or eliminating certain appropriations made in Section 6 of the bill, which adds Chapter 4.5 (commencing with Article 5, Section 14556.40) to Part 5.3 of Division 3 of Title 2 of the Government Code, by a total of $93,800,000. These expenditures are being eliminated because I have specific concerns about the projects and their priority for inclusion in this plan, and about the precedent these projects would set with respect to state expenditures. Additionally, I am requesting that the Legislature enact subsequent legislation to correct certain technical defects in this bill and modify the financing of the program to have less of an impact on the State General Fund in future years.

I am reducing the expenditures in Chapter 4.5, Article 5, Section 14556.40, subsection (a) of the Government Code by eliminating or reducing the following paragraphs:

Paragraph (120) is eliminated, which allocates $1,500,000 to Yuba County for the Yuba Airport runway extension and associated improvements. This project is not a congestion relief project affecting most travelers in the area..

Paragraph (125) is eliminated, which allocates $5,000,000 to the Orange County Transportation Authority for the Route 57 toll road environmental impact report and study for expansion project. The franchise agreement for this project prohibits use of state funds in this fashion.

Paragraph (130) is eliminated, which allocates $3,500,000 to the City of Garden Grove for the Route 22; connector to the interchange with I-405. Over $206 million for Route 22 is already included in Paragraph (70).

Paragraph (131) is eliminated, which allocates $800,000 to the town of Apple Valley for the Bear Valley Road closure project and Kasota Road safety redesign. Funding for this project may be available in the State Highway Operations and Preservation Program and through local street and road funding.

Paragraph (132) is eliminated, which allocates $7,000,000 to Los Angeles County for the Fairway Drive grade separation project in the San Gabriel Valley. This project already has access to several funding sources through the Alameda Corridor East Project.

Paragraph (136) is eliminated, which allocates $3,500,000 to City of Palmdale for the widening of Avenue S; between Route 14 and Route 138. This project does not appear to provide significant congestion relief or to fit other priorities for use of these funds.

Paragraph (137) is eliminated, which allocates $5,500,000 to City of Lancaster for improvements to the Fox Field Industrial Corridor. This project does not appear to provide significant congestion relief or to fit other priorities for use of these funds.

Paragraph (138) is reduced by $3,000,000 to $4,000,000, which allocates funds to the Cross Valley Rail Corridor Joint Powers Authority for the upgrade of railroad track from Visalia to Huron. This project mainly funds improvements to rail lines that will be used by short line freight rail. Although I recognize that this project may provide significant local goods movement capacity, I expect local and railroad funds to provide the majority of funding.

Paragraph (142) is reduced by $1,500,000 to $2,000,000 for the City of West Hollywood for the repair, maintenance, and mitigation of Santa Monica Boulevard. A portion this project appears to be eligible for the street and road maintenance funding provided in this measure.

Paragraph (143) is eliminated, which allocates $1,900,000 to the Capital Corridor Joint Powers Authority for the expansion of Intercity rail service between San Jose, Oakland, and the Sacramento region. Such service cannot be implemented this year, and the ongoing operating costs should be funded from the Public Transportation Account in due course.

Paragraph (144) is reduced by $45,000,000 to $5,000,000 for the Golden Gate Bridge Highway and Transportation District for the seismic retrofit of the Golden Gate Bridge. It is my understanding that other funding sources are available, and Caltrans will be working with the District to assist in securing federal funding for this project.

Paragraph (147) is eliminated, which allocates $7,000,000 to the Imperial Valley Association of Governments for the reconstruction of the I-8/Imperial Avenue interchange. This project does not appear to provide significant congestion relief or to fit other priorities for use of these funds.

Paragraph (155) is eliminated, which allocates $8,600,000 to the City of Chula Vista to acquire right-of-way, build, and operate a 10-mile limited access toll facility from San Miguel Road to Otay Mesa Road and conduct a due diligence review, including an independent appraisal of the feasibility of acquisition by a public agency of the Route 125 franchise agreement authorized under Section 143 of the Streets and Highways Code. I do not support state funding for the acquisition of a private toll road franchise.

GRAY DAVIS, Governor

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

SECTION 1. Section 14556.40 is added to the Government Code, to read:

14556.40. (a) The following projects are eligible for grants from the Traffic Congestion Relief Fund, established by Assembly Bill No. 2928 of the 1999–2000 Regular Session, for the purposes and amounts specified:

(1) BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties. Seven hundred twenty-five million dollars ($725,000,000). The lead applicant is the Santa Clara County Valley Transportation Authority.

(2) Fremont-South Bay Commuter Rail; acquire rail line and start commuter rail service between Fremont and San Jose in Santa Clara and Alameda Counties. Thirty-five million dollars ($35,000,000). The lead applicant is the Santa Clara Valley Transportation Authority.

(3) Route 101; widen freeway from four to eight lanes south of San Jose, Bemal Road to Burnett Avenue in Santa Clara County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(4) Route 680; add northbound HOV lane over Sunol Grade, Milpitas to Route 84 in Santa Clara and Alameda Counties. Sixty million dollars ($60,000,000). The lead applicant is the department or the Alameda County Congestion Management Agency.

(5) Route 101; add northbound lane to freeway through San Jose, Route 87 to Trimble Road in Santa Clara County. Five million dollars ($5,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(6) Route 262; major investment study for cross connector freeway, Route 680 to Route 880 near Warm Springs in Santa Clara County. One million dollars ($1,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(7) Caltrain; expand service to Gilroy; improve parking, stations, and platforms along UPRR line in Santa Clara County. Fifty-five million dollars ($55,000,000). The lead applicant is Santa Clara Valley Transportation Authority.

(8) Route 880; reconstruct Coleman Avenue Interchange near San Jose Airport in Santa Clara County. Five million dollars ($5,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(9) Capitol Corridor; improve intercity rail line between Oakland and San Jose, and at Jack London Square and Emeryville stations in Alameda and Santa Clara Counties. Twenty-five million dollars

($25,000,000). The lead applicant is the department or the Capitol Corridor Joint Powers Authority.

(10) Regional Express Bus; acquire low-emission buses for new express service on HOV lanes regionwide. In nine counties. Forty million dollars ($40,000,000). The lead applicant is the Metropolitan Transportation Commission.

(11) San Francisco Bay Southern Crossing; complete feasibility and financial studies for new San Francisco Bay crossing (new bridge, HOV/Transit bridge or second BART tube) in Alameda and San Francisco or San Mateo Counties. Five million dollars ($5,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(12) Bay Area Transit Connectivity; complete studies of, and fund related improvements for, the I-580 Livermore Corridor; West Contra Costa County and Route 4 Corridors in Alameda and Contra Costa Counties. Seventeen million dollars ($17,000,000). The lead applicant for the I-580 study is the Alameda County Congestion Management Agency; and the Contra Costa Transportation Authority is the lead applicant for the West Contra Costa and Route 4 studies.

(13) CalTrain Peninsula Corridor; acquire rolling stock, add passing tracks, and construct pedestrian access structure at stations between San Francisco and San Jose in San Francisco, San Mateo, and Santa Clara Counties. One hundred twenty-seven million dollars ($127,000,000). The lead applicant is the Peninsula Joint Powers Board.

(14) CalTrain; extension to Salinas in Monterey County. Twenty million dollars ($20,000,000). The lead applicant is the Transportation Agency for Monterey County.

(15) Route 24; Caldecott Tunnel; add fourth bore tunnel with additional lanes in Alameda and Contra Costa Counties. Twenty million dollars ($20,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(16) Route 4; construct one or more phases of improvements to widen freeway to eight lanes from Railroad through Loveridge Road, including two high-occupany vehicle lanes, and to six or more lanes from east of Loveridge Road through Hillcrest. Thirty-nine million dollars ($39,000,000). The lead applicant is the Contra Costa Transportation Authority.

(17) Route 101; add reversible HOV lane through San Rafael, Sir Francis Drake Boulevard to North San Pedro Road in Marin County. Fifteen million dollars ($15,000,000). The lead applicant is the department or the Marin Congestion Management Agency.

(18) Route 101; widen eight miles of freeway to six lanes, Novato to Petaluma (Novato Narrows) in Marin and Sonoma Counties.

Twenty-one million dollars ($21,000,000). The lead applicant is the department or the Sonoma County Transportation Authority.

(19) Bay Area Water Transit Authority; establish a regional water transit system beginning with Treasure Island in the City and County of San Francisco. Two million dollars ($2,000,000). The lead applicant is the Bay Area Water Transit Authority.

(20) San Francisco Muni Third Street Light Rail; extend Third Street line to Chinatown (tunnel) in the City and County of San Francisco. One hundred forty million dollars ($140,000,000). The lead applicant is the Municipal Transportation Agency.

(21) San Francisco Muni Ocean Avenue Light Rail; reconstruct Ocean Avenue light rail line to Route 1 near California State University, San Francisco, in the City and County of San Francisco. Seven million dollars ($7,000,000). The lead applicant is the Municipal Transportation Agency.

(22) Route 101; environmental study for reconstruction of Doyle Drive, from Lombard St./Richardson Avenue to Route 1 Interchange in City and County of San Francisco. Fifteen million dollars ($15,000,000). The lead applicant is the department or the San Francisco County Transportation Authority.

(23) CalTrain Peninsula Corridor; complete grade separations at Poplar Avenue in (Burlingame), 25th Avenue (San Mateo), and Linden Avenue (South San Francisco) in San Mateo County. Fifteen million dollars ($15,000,000). The lead applicant is the San Mateo County Transportation Authority.

(24) Vallejo Baylink Ferry; acquire low-emission ferryboats to expand Baylink Vallejo-San Francisco service in Solano County. Five million dollars ($5,000,000). The lead applicant is the City of Vallejo.

(25) I-80/I-680/Route 12 Interchange in Fairfield in Solano County; 12 interchange complex in seven stages (Stage 1). Thirteen million dollars ($13,000,000). The lead applicant is the department or the Solano Transportation Authority.

(26) ACE Commuter Rail; add siding on UPRR line in Livermore Valley in Alameda County. One million dollars ($1,000,000). The lead applicant is the Alameda County Congestion Management Authority.

(27) Vasco Road Safety and Transit Enhancement Project in Alameda and Contra Costa Counties. Eleven million dollars ($11,000,000). The lead applicant is Alameda County Congestion Management Authority.

(28) Parking Structure at Transit Village at Richmond BART Station in Contra Costa County. Five million dollars ($5,000,000). The lead applicant is the City of Richmond.

(29) AC Transit; buy two fuel cell buses and fueling facility for demonstration project in Alameda and Contra Costa Counties. Eight

million dollars ($8,000,000). The lead applicant is the Alameda Contra Costa Transit District.

(30) Implementation of commuter rail passenger service from Cloverdale south to San Rafael and Larkspur in Marin and Sonoma Counties. Thirty-seven million dollars ($37,000,000). The lead applicant is the Sonoma-Marin Area Transit Authority.

(31) Route 580; construct eastbound and westbound HOV lanes from Tassajara Road/Santa Rita Road to Vasco Road in Alameda County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Alameda County Congestion Management Authority.

(32) North Coast Railroad; repair and upgrade track to meet Class II (freight) standards in Napa and Humboldt Counties. Sixty million dollars ($60,000,000). The lead applicant is North Coast Rail Authority.

(33) Bus Transit; acquire low-emission buses for Los Angeles County MTA bus transit service. One hundred fifty million dollars ($150,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(34) Blue Line to Los Angeles; new rail line Pasadena to Los Angeles in Los Angeles County. Forty million dollars ($40,000,000). The lead applicant is the Pasadena Metro Blue Line Construction Authority.

(35) Pacific Surfliner; triple track intercity rail line within Los Angeles County and add run-through-tracks through Los Angeles Union Station in Los Angeles County. One hundred million dollars ($100,000,000). The lead applicant is the department.

(36) Los Angeles Eastside Transit Extension; build new light rail line in East Los Angeles, from Union Station to Atlantic via 1st Street to Lorena in Los Angeles County. Two hundred thirty-six million dollars ($236,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(37) Los Angeles Mid-City Transit Improvements; build Bus Rapid Transit system or Light Rail Transit in Mid-City/Westside/Exposition Corridors in Los Angeles County. Two hundred fifty-six million dollars ($256,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(38) Los Angeles-San Fernando Valley Transit Extension; (A) build an East-West Bus Rapid Transit system in the Burbank-Chandler corridor, from North Hollywood to Warner Center. One hundred forty-five million dollars ($145,000,000). (B) Build a North-South corridor bus transit project that interfaces with the foregoing East-West Burbank-Chandler corridor project and with the Ventura Boulevard Rapid Bus project. One hundred million dollars ($100,000,000). The lead applicant for both extension projects is the Los Angeles County Metropolitan Transportation Authority.

(39) Route 405; add northbound HOV lane over Sepulveda Pass, Route 10 to Route 101 in Los Angeles County. Ninety million dollars ($90,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(40) Route 10; add HOV lanes on San Bernardino Freeway over Kellogg Hill, near Pomona, Route 605 to Route 57 in Los Angeles County. Ninety million dollars ($90,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(41) Route 5; add HOV lanes on Golden State Freeway through San Fernando Valley, Route 170 (Hollywood Freeway) to Route 14 (Antelope Valley Freeway) in Los Angeles County. Fifty million dollars ($50,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(42) Route 5; widen Santa Ana Freeway to 10 lanes (two HOV + two mixed flow), Orange County line to Route 710, with related major arterial improvements, in Los Angeles County. One hundred twenty-five million dollars ($125,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(43) Route 5; improve Carmenita Road Interchange in Norwalk in Los Angeles County. Seventy-one million dollars ($71,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(44) Route 47 (Terminal Island Freeway); construct interchange at Ocean Boulevard Overpass in the City of Long Beach in Los Angeles County. Eighteen million four hundred thousand dollars ($18,400,000). The lead applicant is the Port of Long Beach.

(45) Route 710; complete Gateway Corridor Study, Los Angeles/Long Beach ports to Route 5 in Los Angeles County. Two million dollars ($2,000,000). The lead applicant is the department.

(46) Route 1; reconstruct intersection at Route 107 in Torrance in Los Angeles County. Two million dollars ($2,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(47) Route 101; California Street off-ramp in Ventura County. Fifteen million dollars ($15,000,000). The lead applicant is the department or the Ventura County Transportation Commission.

(48) Route 101; corridor analysis and PSR to improve corridor from Route 170 (North Hollywood Freeway) to Route 23 in Thousand Oaks (Ventura County) in Los Angeles and Ventura Counties. Three million dollars ($3,000,000). The lead applicant is the department.

(49) Hollywood Intermodal Transportation Center; intermodal facility at Highland Avenue and Hawthorn Avenue in the City of Los

Angeles. Ten million dollars ($10,000,000). The lead applicant is the City of Los Angeles.

(50) Route 71; complete three miles of six-lane freeway through Pomona, from Route 10 to Route 60 in Los Angeles County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(51) Route 101/405; add auxiliary lane and widen ramp through freeway interchange in Sherman Oaks in Los Angeles County. Twenty-one million dollars ($21,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(52) Route 405; add HOV and auxiliary lanes for 1 mile in West Los Angeles, from Waterford Avenue to Route 10 in Los Angeles County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(53) Automated Signal Corridors (ATSAC); improve 479 automated signals in Victory/Ventura Corridor, and add 76 new automated signals in Sepulveda Boulevard and Route 118 Corridors in Los Angeles County. Sixteen million dollars ($16,000,000). The lead applicant is the City of Los Angeles.

(54) Alameda Corridor East; build grade separations on BNSF and UPRR lines, downtown Los Angeles to Los Angeles County line in Los Angeles County. One hundred fifty million dollars ($150,000,000). The lead applicant is the San Gabriel Valley Council of Governments.

(55) Alameda Corridor East; build grade separations on UPRR line, Los Angeles County line to Colton, with rail-to-rail separation at Colton in San Bernardino County. Ninety-five million dollars ($95,000,000). The lead applicant is the San Bernardino Associated Governments.

(56) Metrolink; track and signal improvements on Metrolink; San Bernardino line in San Bernardino County. Fifteen million dollars ($15,000,000). The lead applicant is the Southern California Regional Rail Authority.

(57) Route 215; add HOV lanes through downtown San Bernardino, Route 10 to Route 30 in San Bernardino County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(58) Route 10; widen freeway to eight lanes through Redlands, Route 30 to Ford Street in San Bernardino County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(59) Route 10; Live Oak Canyon Interchange in the City of Yucaipa in San Bernardino County. Eleven million dollars ($11,000,000). The

lead applicant is the department or the San Bernardino County Transportation Commission.

(60) Route 15; southbound truck climbing lane at two locations in San Bernardino County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(61) Route 10; reconstruct Apache Trail Interchange east of Banning in Riverside County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(62) Route 91; add HOV lanes through downtown Riverside, Mary Street to Route 60/215 junction in Riverside County. Forty million dollars ($40,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(63) Route 60; add seven miles of HOV lanes west of Riverside, Route 15 to Valley Way in Riverside County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(64) Route 91; improve the Green River Interchange and add auxiliary lane and connector ramp east of the Green River Interchange to northbound Route 71 in Riverside County. Five million dollars ($5,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(70) Route 22; add HOV lanes on Garden Grove Freeway, Route I-405 to Route 55 in Orange County. Two hundred six million five hundred thousand dollars ($206,500,000). The lead applicant is the department or the Orange County Transportation Authority.

(73) Alameda Corridor East; (Orangethorpe Corridor) build grade separations on BNSF line, Los Angeles County line through Santa Ana Canyon in Orange County. Twenty-eight million dollars ($28,000,000). The lead applicant is the Orange County Transportation Authority.

(74) Pacific Surfliner; double track intercity rail line within San Diego County, add maintenance yard in San Diego County. Forty-seven million dollars ($47,000,000). The lead applicant is the department or North Coast Transit District.

(75) San Diego Transit Buses; acquire about 85 low-emission buses for San Diego transit service in San Diego County. Thirty million dollars ($30,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(76) Coaster Commuter Rail; acquire one new train set to expand commuter rail in San Diego County. Fourteen million dollars ($14,000,000). The lead applicant is North County Transit District.

(77) Route 94; complete environmental studies to add capacity to Route 94 corridor, downtown San Diego to Route 125 in Lemon Grove

in San Diego County. Twenty million dollars ($20,000,000). The lead applicant is the department or San Diego Association of Governments.

(78) East Village access; improve access to light rail from new in-town East Village development in San Diego County. Fifteen million dollars ($15,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(79) North County Light Rail; build new 20-mile light rail line from Oceanside to Escondido in San Diego County. Eighty million dollars ($80,000,000). The lead applicant is North County Transit District.

(80) Mid-Coast Light Rail; extend Old Town light rail line 6 miles to Balboa Avenue in San Diego County. Ten million dollars ($10,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(81) San Diego Ferry; acquire low-emission high-speed ferryboat for new off-coast service between San Diego and Oceanside in San Diego County. Five million dollars ($5,000,000). The lead applicant is the San Diego Association of Governments.

(82) Routes 5/805; reconstruct and widen freeway interchange, Genesee Avenue to Del Mar Heights Road in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(83) Route 15; add high-tech managed lane on I-15 freeway north of San Diego (Stage 1) from Route 163 to Route 78 in San Diego County. Seventy million dollars ($70,000,000). The lead applicant is the department or the San Diego Association of Governments.

(84) Route 52; build four miles of new six-lane freeway to Santee, Mission Gorge to Route 67 in San Diego County. Forty-five million dollars ($45,000,000). The lead applicant is the department or the San Diego Association of Governments.

(85) Route 56; construct approximately five miles of new freeway alignment between I-5 and I-15 from Carmel Valley to Rancho Penasquitos in the City of San Diego in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(86) Route 905; build new six-lane freeway on Otay Mesa, Route 805 to Mexico Port of Entry in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(87) Routes 94/125; build two new freeway connector ramps at Route 94/125 in Lemon Grove in San Diego County. Sixty million dollars ($60,000,000). The lead applicant is the department or the San Diego Association of Governments.

(88) Route 5; realign freeway at Virginia Avenue, approaching San Ysidro Port of Entry to Mexico in San Diego County. Ten million dollars

($10,000,000). The lead applicant is the department or the San Diego Association of Governments.

(89) Route 99; improve Shaw Avenue Interchange in northern Fresno in Fresno County. Five million dollars ($5,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(90) Route 99; widen freeway to six lanes, Kingsburg to Selma in Fresno County. Twenty million dollars ($20,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(91) Route 180; build new expressway east of Clovis, Clovis Avenue to Temperance Avenue in Fresno County. Twenty million dollars ($20,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(92) San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line near Hanford in Kings County. Ten million dollars ($10,000,000). The lead applicant is the department.

(93) Route 180; complete environmental studies to extend Route 180 westward from Mendota to I-5 in Fresno County. Seven million dollars ($7,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(94) Route 43; widen to four-lane expressway from Kings County line to Route 99 in Selma in Fresno County. Five million dollars ($5,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(95) Route 41; add auxiliary lane/operational improvements and improve ramps at Friant Road Interchange in Fresno in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(96) Friant Road; widen to four lanes from Copper Avenue to Road 206 in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the County of Fresno.

(97) Operational improvements on Shaw Avenue, Chestnut Avenue, Willow Avenue, and Barstow Avenue near California State University at Fresno in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the Fresno County Transportation Authority. Of the amount authorized under this paragraph, the sum of two million dollars ($2,000,000) shall be transferred to the California State University at Fresno for the purposes of funding preliminary plans, working drawings, or both of those, and related program management costs for the Fresno Events Center.

(98) Peach Avenue; widen to four-lane arterial and add pedestrian overcrossings for three schools in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the City of Fresno.

(99) San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line in seven counties. Fifteen million dollars ($15,000,000). The lead applicant is the department.

(100) San Joaquin Valley Emergency Clean Air Attainment Program; incentives for the reduction of emissions from heavy-duty diesel engines operating within the eight-county San Joaquin Valley region. Twenty-five million dollars ($25,000,000). The lead applicant is the San Joaquin Valley Unified Air Pollution Control District.

(101) Santa Cruz Metropolitan Transit District bus fleet; acquisition of low-emission buses. Three million dollars ($3,000,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(102) Route 101 access; State Street smart corridor Advanced Traffic Corridor System (ATSC) technology in Santa Barbara County. One million three hundred thousand dollars ($1,300,000). The lead applicant is the City of Santa Barbara.

(103) Route 99; improve interchange at Seventh Standard Road, north of Bakersfield in Kern County. Eight million dollars ($8,000,000). The lead applicant is the department or Kern Council of Governments.

(104) Route 99; build seven miles of new six-lane freeway south of Merced, Buchanan Hollow Road to Healey Road in Merced County. Five million dollars ($5,000,000). The lead applicant is the department or the Merced County Association of Governments.

(105) Route 99; build two miles of new six-lane freeway, Madera County line to Buchanon Hollow Road in Merced County. Five million dollars ($5,000,000). The lead applicant is the department or the Merced County Association of Governments.

(106) UC Merced access; build new arterial Campus Parkway to new UC Merced campus in Merced County. Twenty-three million dollars ($23,000,000). The lead applicant is the County of Merced.

(107) Route 205; widen freeway to six lanes, Tracy to I-5 in San Joaquin County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Joaquin Council of Governments.

(108) Route 5; add northbound lane to freeway through Mossdale ''Y'', Route 205 to Route 120 in San Joaquin County. Seven million dollars ($7,000,000). The lead applicant is the department or the San Joaquin Council of Governments.

(109) Route 132; build four miles of new four-lane expressway in Modesto from Dakota Avenue to Route 99 and improve Route 99 Interchange in Stanislaus County. Twelve million dollars ($12,000,000). The lead applicant is the department or the Stanislaus Council of Governments.

(110) Route 132; build 3.5 miles of new four-lane expressway from Route 33 to the San Joaquin county line in Stanislaus and San Joaquin

Counties. Two million dollars ($2,000,000). The lead applicant is the department or the Stanislaus Council of Governments.

(111) Route 198; build 10 miles of new four-lane expressway from Route 99 to Hanford in Kings and Tulare Counties. Fourteen million dollars ($14,000,000). The lead applicant is the department or the Kings County Association of Governments.

(112) Jersey Avenue; widen from 170' Street to 18th Street in Kings County. One million five hundred thousand dollars ($1,500,000). The lead applicant is Kings County.

(113) Route 46; widen to four lanes for 33 miles from Route 5 to San Luis Obispo County line in Kern County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Kern Council of Governments.

(114) Route 65; add four passing lanes, intersection improvement, and conduct environmental studies for ultimate widening to four lanes from Route 99 in Bakersfield to Tulare County line in Kern County. Twelve million dollars ($12,000,000). The lead applicant is the department or the Kern Council of Governments.

(115) South Line Light Rail; extend South Line three miles towards Elk Grove, from Meadowview Road to Calvine Road in Sacramento County. Seventy million dollars ($70,000,000). The lead applicant is the Sacramento Regional Transit District.

(116) Route 80 Light Rail Corridor; double-track Route 80 light rail line for express service in Sacramento County. Twenty-five million dollars ($25,000,000). The lead applicant is the Sacramento Regional Transit District.

(117) Folsom Light Rail; extend Folsom light rail line six miles to Iron Point Road and add three stations in Sacramento County. Twenty million dollars ($20,000,000). The lead applicant is the Sacramento Regional Transit District.

(118) Sacramento Emergency Clean Air/Transportation Plan (SECAT); incentive for the reduction of emissions from heavy-duty diesel engines operating within the Sacramento region. Fifty million dollars ($50,000,000). The lead applicant is the Sacramento Area Council of Governments.

(119) Convert Sacramento Regional Transit bus fleet to low emission and provide Yolobus service by the Yolo County Transportation District; acquire approximately 50 replacement low-emission buses for service in Sacramento and Yolo Counties. Nineteen million dollars ($19,000,000). The lead applicant is the Sacramento Area Council of Governments and the Yolo County Transportation District.

(120) Yuba Airport facility runway extension and improvements to reduce congestion. One million five hundred thousand dollars ($1,500,000). The lead applicant is the County of Yuba.

(121) Metropolitan Bakersfield System Study; to reduce congestion in the City of Bakersfield. Three hundred fifty thousand dollars ($350,000). The lead applicant is the Kern County Council of Governments.

(122) Route 65; widening project from 7th Standard Road to Route 190 in Porterville. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the County of Tulare.

(123) Oceanside Transit Center; parking structure. One million five hundred thousand dollars ($1,500,000). The lead applicant is the City of Oceanside.

(125) Route 57; environmental impact report and study for expansion project. Five million dollars ($5,000,000). The lead applicant is the Orange County Transportation Authority.

(126) Route 50/Watt Avenue interchange; widening of overcrossing and modifications to interchange. Seven million dollars ($7,000,000). The lead applicant is the County of Sacramento.

(127) Route 85/Route 87; interchange completion; addition of two direct connectors for southbound Route 85 to northbound Route 87 and southbound Route 87 to northbound Route 85. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of San Jose.

(128) Airport Road; reconstruction and intersection improvement project. Three million dollars ($3,000,000). The lead applicant is the County of Shasta.

(129) Route 62; utility undergrounding project in right-of-way of Route 62. Three million two hundred thousand dollars ($3,200,000). The lead applicant is the Town of Yucca Valley.

(130) Route 22; connector and widening of interchange with I-405 to reduce congestion. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of Garden Grove.

(131) Bear Valley Road; closure project and Kasota Road, Route 18 frontage; redesign for safety purposes. Eight hundred thousand dollars ($800,000). The lead applicant is the Town of Apple Valley.

(132) Fairway Drive; grade separation at Union Pacific railroad project in San Gabriel Valley. Seven million dollars ($7,000,000). The lead applicant is the County of Los Angeles.

(133) Feasibility studies for grade separation projects for Union Pacific Railroad at Elk Grove Boulevard and Bond Road. One hundred fifty thousand dollars ($150,000). The lead applicant is the City of Elk Grove.

(134) Route 50/Sunrise Boulevard; interchange modifications. Three million dollars ($3,000,000). The lead applicant is the County of Sacramento.

(135) Route 99/Sheldon Road; interchange project; reconstruction and expansion. Three million dollars ($3,000,000). The lead applicant is the County of Sacramento.

(136) Avenue S; widening between Route 14 and Route 138. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of Palmdale.

(137) Fox Field Industrial Corridor; gateway improvements; widening of Route 14/Avenue H overcrossing. Five million five hundred thousand dollars ($5,500,000). The lead applicant is the City of Lancaster.

(138) Cross Valley Rail; upgrade track from Visalia to Huron. Seven million dollars ($7,000,000). The lead applicant is the Cross Valley Rail Corridor Joint Powers Authority.

(139) Balboa Park BART Station; phase I expansion. Six million dollars ($6,000,000). The lead applicant is the San Francisco Bay Area Rapid Transit District.

(140) City of Goshen; overpass for Route 99. One million five hundred thousand dollars ($1,500,000). The lead applicant is the department.

(141) Union City; pedestrian bridge over Union Pacific rail lines. Two million dollars ($2,000,000). The lead applicant is the City of Union City.

(142) West Hollywood; repair, maintenance, and mitigation of Santa Monica Boulevard. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of West Hollywood.

(143) Capital Corridor; expand intercity rail service. One million nine hundred thousand dollars ($1,900,000). The lead applicant is the Capital Corridor Joint Powers Authority.

(144) Seismic retrofit of the national landmark Golden Gate Bridge. Fifty million dollars ($50,000,000). The lead applicant is the Golden Gate Bridge, Highway and Transportation District.

(145) Construction of a new siding in Sun Valley between Sheldon Street and Sunland Boulevard. Six million five hundred thousand dollars ($6,500,000). The lead applicant is the Southern California Regional Rail Authority.

(146) Construction of Palm Drive Interchange. Ten million dollars ($10,000,000). The lead applicant is the Coachella Valley Association of Governments.

(147) Project development work for the reconstruction of the I-8/Imperial Avenue interchange. Seven million dollars ($7,000,000). The lead applicant is the Imperial Valley Association of Governments.

(148) Route 98; widening of 8 miles between Route 111 and Route 7 from two lanes to 4 lanes. Ten million dollars ($10,000,000). The lead applicant is the department.

(149) Purchase of low-emission buses for express service on Route 17. Three million seven hundred fifty thousand dollars ($3,750,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(150) Renovation or rehabilitation of Santa Cruz Metro Center. One million dollars ($1,000,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(151) Purchase of 5 alternative fuel buses for the Pasadena Area Rapid Transit System. One million one hundred thousand dollars ($1,100,000). The lead applicant is the Pasadena Area Rapid Transit System.

(152) Pasadena Blue Line transit-oriented mixed-use development. One million five hundred thousand dollars ($1,500,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority of the City of South Pasadena.

(153) Pasadena Blue Line utility relocation. Five hundred fifty thousand dollars ($550,000). The lead applicant is the City of South Pasadena.

(154) Route 135/I-5 interchange study. One hundred thousand dollars ($100,000). The lead applicant is the department.

(155) City of Chula Vista; (A) at its option, to acquire right-of-way, build, and operate a 10-mile limited access toll facility from San Miguel Road to Otay Mesa Road. Eight million six hundred thousand dollars ($8,600,000). (B) Of the amount specified, five hundred thousand dollars ($500,000) shall be immediately available to the City of Chula Vista for the purpose of conducting a due diligence review, including an independent appraisal of the feasibility of acquisition by a public agency of the Route 125 franchise agreement authorized under Section 143 of the Streets and Highways Code. The lead applicant is the City of Chula Vista.

(156) Seismic retrofit and core segment improvements for the Bay Area Rapid Transit system. Twenty million dollars ($20,000,000). The lead applicant is the San Francisco Bay Area Rapid Transit District.

(157) Route 12; Congestion relief improvements from Route 29 to I-80 through Jamison Canyon. Seven million dollars ($7,000,000). The lead applicant is the department.

(158) Remodel the intersection of Olympic Boulevard and Lemon Street and install a new traffic signal. Two million dollars ($2,000,000). The lead applicant is the City of Los Angeles.

(159) Route 101; redesign and construction of Steele Lane interchange. Six million dollars ($6,000,000). The lead applicant is the department or the Sonoma County Transportation Authority.

(b) As used in this section ''route'' is a state highway route as identified in Article 3 (commencing with Section 300) of Chapter 2 of Division 1 of the Streets and Highways Code.

CHAPTER 93

An act to add Section 49557.1 to, and to add Chapter 2.5 (commencing with Section 59150) to Part 32 of, the Education Code, to amend Section 14672.9 of, to add Section 13969.5 to, the Government Code, to amend Sections 1341.4, 1356, 1395, 1417.2, 1797.112, 101230, 104161, 104162, 104163, 104775, 104795, 124010, 124011, 124012, 124013, 124014, 124015, and 124900 of, to add Sections 1276.6, 1417.4, 1421.1, and 125285 to, to add and repeal Section 1421.2 of, to repeal Section 104164 of, to repeal and add Section 104160 of, to add Article 1.7 (commencing with Section 104170) to Chapter 2 of Part 1 of Division 103 of, to add Chapter 6.5 (commencing with Section 104316) and Chapter 7 (commencing with Section 104320) to Part 1 of Division 103 of, to add and repeal Division 109 (commencing with Section 130200) to, the Health and Safety Code, to amend Section 12693.76 of, to add Section 12693.326 to, and to add and repeal Section 12693.325 of, the Insurance Code, and to amend Sections 4689.7, 4791, 5675, 14005.30, 14011.15, 14021.4, 14053, 14053.1, 14085.7, 14085.8, 14105.31, 14105.33, 14105.35, 14105.37, 14105.38, 14105.39, 14105.4, 14105.405, 14105.41, 14105.42, 14105.91, 14105.915, 14105.916, 14105.981, 14110.6, 14115, 14132.22, 14132.72, 14163, 14409, and 16809 of, to amend and renumber Section 14105.42 of, to add Sections 4094.1, 4094.2, 4107.1, 4598.5, 4639.5, 5600.8, 5614, 5614.5, 5618, 5675.1, 5676, 5676.5, 14005.28, 14005.40, 14067.5, 14085.81, 14105.17, 14132.05, 14132.88, 14132.91, 14133.05, and 14408.5 to, to add Article 2.5 (commencing with Section 5689) to Chapter 2.5 of Part 2 of Division 5 of, to add Chapter 5 (commencing with Section 4097) and Chapter 6 (commencing with Section 4098) to Part 1 of Division 4 of, to add Part 3.5 (commencing with Section 5830) to Division 5 of, and to add and repeal Chapter 4 (commencing with Section 4096.7) to Part 1 of Division 4 of, the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 2000. Filed with
Secretary of State July 7, 2000.]

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

SECTION 1. Section 49557.1 is added to the Education Code, to read:

49557.1. In making available to pupils the application for participation in the free or reduced-price meal program provided for under subdivision (a) of Section 49557, each school district and county superintendent of schools is encouraged to include information that parents may use to request information concerning the Medi-Cal program administered pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, and the Healthy Families Program, administered pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code. School districts and county superintendents of schools are encouraged to perform this task in the most cost-beneficial manner.

SEC. 2. Chapter 2.5 (commencing with Section 59150) is added to Part 32 of the Education Code, to read:

CHAPTER 2.5. TUBERCULOSIS TESTING IN SPECIAL SCHOOLS

59150. Students attending the California School for the Deaf, Northern California, California School for the Deaf, Southern California, and California School for the Blind shall be tested for exposure to tuberculosis at least once every two years. The results of these tests shall be provided to the director of the appropriate special school. The parent or guardian of the student shall be responsible for the cost, if any, of the test.

SEC. 3. Section 14672.9 of the Government Code is amended to read:

14672.9. (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Developmental Services, may let in the best interests of the state to a nonprofit corporation, for the purposes specified in this section, real property not exceeding 45.3 acres located within the grounds of the Agnews State Hospital. Of this amount, up to 27 acres may be leased for a period not to exceed 79 years beginning in 1974 and ending July 1, 2053, for the purpose of constructing a business development park. In addition, no more than five acres, of the remaining acres, required by the local government agency for offsite improvements and roadways to support the business development park, may be leased for a period not to exceed 79 years beginning in 1974 and ending July 1, 2053. The remaining acres shall be leased for a period not to exceed 50 years beginning in 1974 and ending on July 1, 2024, for the purpose of conducting an educational and work program for developmentally

disabled and other handicapped persons. In the event the nonprofit corporation fails to substantially commence construction of the business development park by July 1, 1988, the terms of the lease allowing construction of a business development park and roadways and offsite improvements shall be null and void, and the lease shall revert to a 50-year period terminating July 1, 2024.

The Department of General Services may provide a one-year extension to the deadline for commencement of construction if the department determines the nonprofit corporation has reasonable grounds for failure to commence construction.

(b) The lease authorized by this section shall be subject to periodic review every five years. The review shall require submission of a report every five years by the lessee. The report shall be reviewed by the Director of General Services, who shall assure the state that the original purposes of the lease are being carried out.

(c) Subject to the approval of the Director of General Services and the State Department of Developmental Services, a lease executed under subdivision (a) may be revised to provide any of the following:

(1) That the nonprofit corporation may assign its interest in the leased property, in whole or in part.

(2) That the nonprofit corporation may sublet all or any portion of the leased property.

(3) That the nonprofit corporation may enter into joint ventures with any other person, firm, partnership, or corporation to construct facilities or to conduct programs and activities on the leased property.

(d) Any revision of the nonprofit corporation's lease pursuant to subdivision (c) shall be subject to the requirement that all activities, assignments, and subleases shall be in furtherance of the purposes specified in subdivision (a).

(e) Any sublease or partial assignment or transfer of the nonprofit corporation's interest in the leased property, whether voluntary, involuntary, or by operation of law, shall not terminate the nonprofit corporation's remaining interest in the leased property.

(f) In addition to rent paid by the nonprofit corporation to the state, the nonprofit corporation shall pay the state 50 percent of the gross rental income resulting from any subleases pursuant to subdivision (c) through June 30, 2024, and 75 percent of the gross rental income from July 1, 2024, to July 1, 2053. Any proceeds received by the state shall be deposited in a special account within the General Fund to be known as the Developmental Disabilities Services Account. All funds within this account shall be held without regard to fiscal years and shall be available for appropriation by the Legislature for the benefit of persons with developmental disabilities. Any interest accruing to moneys deposited in the account also shall accrue to the account.

On or before April 15 of each year beginning in 1987, the State Department of Developmental Services shall submit a report to the Assembly Ways and Means Committee and the Senate Appropriations Committee. The report shall include, but not be limited to, the following information:

(1) The amount of funds in the Developmental Disabilities Services Account in the General Fund.

(2) The department's priorities for expenditure of those funds.

(g) Any profits to the nonprofit corporation from the proceeds of a sublease executed pursuant to paragraph (2) of subdivision (c) shall be directed into programs for persons with disabilities for the purpose of directly benefiting clients of the nonprofit corporation.

(h) A minimum of 15 percent of the total number of jobs created as a result of the sublease shall be reserved for handicapped employees and placed by the nonprofit corporation.

(i) (1) Moneys in the Developmental Disabilities Services Account shall be expended by the State Department of Developmental Services, through a request for proposals process, for projects that expand the availability of affordable housing for persons with developmental disabilities, including housing for funding developers in nonprofit housing development corporations or coalitions with expertise in the housing needs of persons with developmental disabilities.

(2) Prior to the expenditure of funds under this subdivision, the department shall consult with stakeholder groups, as designated by the State Department of Developmental Services, in ranking proposals and awarding funds. At least one project shall be located on the site previously known as the West Campus of Agnews Developmental Center. Funds shall not be awarded pursuant to this subdivision to a regional center for the development or management of housing projects or to fund regional center staff required in subdivision (c) of Section 4640.6 of the Welfare and Institutions Code.

(3) On or before April 15 of each year, the State Department of Developmental Services shall submit a report to the appropriate fiscal and policy committees of the Legislature on the implementation of this subdivision. The report shall include, but not be limited to, both of the following:

(1) A description of projects funded in the previous year.

(2) A description of the process used to select projects, including the criteria used in their selection and the stakeholder groups that were consulted as part of that process.

SEC. 4. The Legislature finds and declares as follows:

(a) Crimes against persons with substantial disabilities remain largely invisible and unapprised. Crimes against the disabled are frequently not reported to law enforcement and, when reported, may not

be prosecuted. Furthermore, many of these victims are not aware of services provided by the program administered by the State Board of Control pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(b) Under its existing authority, the State Department of Mental Health has initiated a program to prevent crime against disabled persons, increase the reporting of crime committed against disabled persons, assist law enforcement agencies in effectively investigating and prosecuting crimes committed against disabled persons, and make disabled victims aware of services available to them.

SEC. 5. Section 13969.5 is added to the Government Code, to read:

13969.5. (a) (1) The Governor's Budget shall specify the estimated amount in the Restitution Fund that is in excess of the amount needed to pay claims pursuant to this article, to pay administrative costs for increasing restitution funds, and to maintain a prudent reserve.

(2) It is the intent of the Legislature that, notwithstanding Section 13967, funds be appropriated in the annual Budget Act to the State Department of Mental Health from those funds that are determined to be in excess of the amount needed pursuant to paragraph (1), for the purposes of this section.

(b) Notwithstanding any other provision of law, moneys in the Restitution Fund appropriated in the annual Budget Act pursuant to subdivision (a) may be used to fund programs and activities operated by the State Department of Mental Health, that address the problem of unequal protection for, and unequal services to, crime victims with disabilities.

(c) Programs and activities that may be funded pursuant to this section include the following, as they relate to persons with disabilities:

(1) Identification of crime victims with disabilities.

(2) Crime and violence prevention.

(3) Improvement of access to victim's support and compensation.

(4) Planning and activities by service provider organizations to address the reduction of crime.

(5) Establishment of programs for personal safety, planning, and training.

(6) Public information efforts.

(7) Coordination with other federal and state agencies.

(8) Training of staff.

(9) Programs and activities that facilitate the building of partnerships between advocates and service providers and the criminal justice system to assist crime victims with disabilities to identify and report crime, and assist them in navigating the criminal justice system; secure victim assistance for victims with disabilities; and assist the criminal justice system in investigating, prosecuting, and trying those cases.

(10) Any other program or activity related to crime victims with disabilities.

(d) Moneys appropriated from the Restitution Fund may also be used for the evaluation of the effectiveness of the programs and activities funded pursuant to this section.

SEC. 6. Section 1276.6 is added to the Health and Safety Code, to read:

1276.6. Each facility shall certify, under penalty of perjury and to the best of their knowledge, on a form provided by the department, that funds received pursuant to increasing the staffing ratio to 3.2, as provided for in Section 1276.5, were expended for this purpose. The facility shall return the form to the department within 30 days of receipt by the facility.

SEC. 7. Section 1341.4 of the Health and Safety Code is amended to read:

1341.4. (a) In order to effectively support the Department of Managed Care in the administration of this law, there is hereby established in the State Treasury, the Managed Care Fund. The administration of the Department of Managed Care shall be supported from the Managed Care Fund.

(b) In any fiscal year, the Managed Care Fund shall maintain not more than a prudent 5 percent reserve unless otherwise determined by the Department of Finance.

SEC. 8. Section 1356 of the Health and Safety Code is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall reimburse the director for the actual cost of processing the application, including overhead, up to an amount not to exceed twenty-five thousand dollars ($25,000). The cost shall be billed not more frequently than monthly and shall be remitted by the applicant to the director within 30 days of the date of billing. The director shall not issue a license to any applicant prior to receiving payment in full for all amounts charged pursuant to this subdivision.

(b) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan shall pay to the director an amount as estimated by the director for the ensuing fiscal year, as a reimbursement of its share of all costs and expenses, including, but not limited to, costs and expenses associated with routine financial examinations, grievances and complaints including maintaining a toll-free number for consumer grievances and complaints, investigation and enforcement, medical surveys and reports, and overhead, reasonably incurred in the administration of this chapter and not otherwise recovered by the director under this chapter or from the Managed Care Fund. The amount may be paid in two equal installments. The first

installment shall be paid on or before August 1 of each year, and the second installment shall be paid on or before December 15 of each year. The amount paid by each plan, except a plan offering only specialized health care service plan contracts, shall be twelve thousand five hundred dollars ($12,500), plus an amount up to, but not exceeding, an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 65 cents for each enrollee
25,001 to 75,000	$16,250 + 53 cents for each enrollee in excess of 25,000
75,001 to 150,000	$42,750 + 50 cents for each enrollee in excess of 75,000
150,001 to 300,000	$80,250 + 47 cents for each enrollee in excess of 150,000
over 300,000	$150,750 + 45 cents for each enrollee in excess of 300,000

Plans offering only specialized health care service plan contracts shall pay seven thousand five hundred dollars ($7,500), plus an amount up to, but not exceeding, an amount computed in accordance with the following schedule:

Plan Enrollment	Amount of Assessment
0 to 25,000	$0 + 48 cents for each enrollee
25,001 to 75,000	$12,000 + 36 cents for each enrollee in excess of 25,000
75,001 to 150,000	$30,000 + 30 cents for each enrollee in excess of 75,000
150,001 to 300,000	$52,500 + 26 cents for each enrollee in excess of 150,000
over 300,000	$91,500 + 24 cents for each enrollee in excess of 300,000

The amount paid by each plan shall be for each enrollee enrolled in its plan in this state as of the preceding March 31, and shall be fixed by the director by notice to all licensed plans on or before June 15 of each year. A plan that is unable to report the number of enrollees enrolled in the plan because it does not collect that data, shall provide the director with an estimate of the number of enrollees enrolled in the plan and the method used for determining the estimate. The director may, upon giving written notice to the plan, revise the estimate if the commissioner determines that the method used for determining the estimate was not reasonable.

In determining the amount assessed, the director shall consider all appropriations from the Managed Care Fund for the support of this chapter and all reimbursements provided for in this chapter.

(c) Each licensed plan shall also pay two thousand dollars ($2,000), plus an amount up to, but not exceeding, forty-eight hundredths of one cent ($0.0048) for each enrollee for the purpose of reimbursing its share of all costs and expenses, including overhead, reasonably anticipated to be incurred by the department in administering Sections 1394.7 and 1394.8 during the current fiscal year. The amount charged shall be remitted within 30 days of the date of billing.

(d) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this chapter.

(e) The director by notice to all licensed plans on or before September 15, 2000, may require health care service plans to pay an additional assessment to provide the department with sufficient revenues to support costs and expenses as set forth in this section and subdivision (b) of Section 1341.4 for the 2000–01, 2001–02, and 2002–03 fiscal years. The assessment pursuant to this subdivision is separate and independent of the assessment in subdivision (b), and may not be aggregated for the purposes of limitation or otherwise with the assessment in subdivision (b). The assessment pursuant to this subdivision is not subject to the limitations imposed on assessments pursuant to Section 1356.1. In imposing an assessment pursuant to this subdivision the director shall levy on each plan an amount determined by the director using the categories of plans in the schedules set forth in subdivision (b). The assessment shall be paid in full or in two equal installments, as determined by the department. On July 1, 2003, and thereafter, the director may raise the assessment limit pursuant to subdivision (b) to incorporate annual expenditure levels set forth in this subdivision.

(f) For the purpose of calculating the assessment under this section, an enrollee who is enrolled in one plan and who receives health care services under arrangements made by another plan or plans, whether pursuant to a contract, agreement, or otherwise, shall be considered to be enrolled in each of the plans.

SEC. 9. Section 1395 of the Health and Safety Code is amended to read:

1395. (a) Notwithstanding Article 6 (commencing with Section 650) of Chapter 1 of Division 2 of the Business and Professions Code, any health care service plan or specialized health care service plan may, except as limited by this subdivision, solicit or advertise with regard to the cost of subscription or enrollment, facilities and services rendered, provided, however, Article 5 (commencing with Section 600) of Chapter 1 of Division 2 of the Business and Professions Code remains in effect.

Any price advertisement shall be exact, without the use of such phrases as "as low as," "and up," "lowest prices" or words or phrases of similar import. Any advertisement that refers to services, or costs for the services, and that uses words of comparison must be based on verifiable data substantiating the comparison. Any health care service plan or specialized health care service plan so advertising shall be prepared to provide information sufficient to establish the accuracy of the comparison. Price advertising shall not be fraudulent, deceitful, or misleading, nor contain any offers of discounts, premiums, gifts, or bait of 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.

(b) Plans licensed under this chapter shall not be deemed to be engaged in the practice of a profession, and may employ, or contract with, any professional licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code to deliver professional services. Employment by or a contract with a plan as a provider of professional services shall not constitute a ground for disciplinary action against a health professional licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code by a licensing agency regulating a particular health care profession.

(c) A health care service plan licensed under this chapter may directly own, and may directly operate through its professional employees or contracted licensed professionals, offices and subsidiary corporations, including pharmacies that satisfy the requirements of subdivision (d) of Section 4080.5 of the Business and Professions Code, as are necessary to provide health care services to the plan's subscribers and enrollees.

(d) A professional licensed pursuant to the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code who is employed by, or under contract to, a plan may not own or control offices or branch offices beyond those expressly permitted by the provisions of the Business and Professions Code.

(e) Nothing in this chapter shall be construed to repeal, abolish, or diminish the effect of Section 129450 of the Health and Safety Code.

(f) Except as specifically provided in this chapter, nothing in this chapter shall be construed to limit the effect of the laws governing professional corporations, as they appear in applicable provisions of the Business and Professions Code, upon specialized health care service plans.

(g) No representative of a participating health plan or its subcontractor representative shall in any manner use false or misleading

claims to misrepresent itself, the plan, the subcontractor, or the Healthy Families or Medi-Cal program while engaging in application assistance activities that are subject to this section. Notwithstanding any other provision of this chapter, any representative of the health care plan or of the health care plan's subcontractor who violates any of the provisions of Section 12695.325 of the Insurance Code shall only be subject to a fine of five hundred dollars ($500) for each of those violations.

(h) A health care service plan shall comply with Section 12693.325 of the Insurance Code and Section 14409 of the Welfare and Institutions Code. In addition to any other disciplinary powers provided by this chapter, if a health care service plan violates any of the provisions of Section 12693.325 of the Insurance Code, the department may prohibit the health care service plan from providing application assistance and contacting applicants pursuant to Section 12693.325 of the Insurance Code.

SEC. 10. Section 1417.2 of the Health and Safety Code is amended to read:

1417.2. (a) Notwithstanding Section 1428, moneys collected as a result of civil penalties imposed under this chapter shall be deposited into an account which is hereby established in the Special Deposit Fund under the provisions of Section 16370 of the Government Code. This account is entitled the Health Facilities Citation Penalties Account and shall, upon appropriation by the Legislature, be used for the protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the state department, in the event of a facility closure.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership, in the event that the revenues of the facility are insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

(4) The costs associated with informational meetings required under Section 1327.2.

(b) Notwithstanding subdivision (a), the balance in the Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars ($10,000,000).

SEC. 11. Section 1417.4 is added to the Health and Safety Code, to read:

1417.4. (a) There is hereby established in the State Department of Health Services a Quality Awards Program for nursing homes. The department shall establish criteria, after consultation with stakeholder

groups, for recognizing all skilled nursing facilities that provide exemplary care to residents.

(b) Monetary awards shall be made to Quality Awards Program recipients that serve high proportions of Medi-Cal residents to the extent funds are appropriated each year in the Budget Act.

(c) Monetary awards presented under this section and paid for by funds appropriated from the General Fund shall be used for staff bonuses and distributed in accordance with criteria established by the department.

(d) Monetary awards presented under this section and paid for from funds from the Federal Citation Penalty Account shall be used to fund innovative facility grants to improve the quality of care and quality of life for residents in skilled nursing facilities.

(e) The department, in consultation with senior advocacy organizations, employee labor organizations representing facility employees, nursing home industry representatives, and other interested parties as deemed appropriate by the department, shall establish criteria for selecting facilities to receive the quality awards. The criteria established pursuant to this subdivision shall not be considered regulations within the meaning of Section 11342 of the Government Code, and shall not be subject to adoption as regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The department shall publish an annual listing of the quality awards program recipients, including the dollar amount awarded, if applicable. The department shall also publish an annual listing of the quality award program recipients that receive innovative facility grants, including the purpose of the grant and its amount.

SEC. 12. Section 1421.1 is added to the Health and Safety Code, to read:

1421.1. (a) Within 24 hours of the occurrence of any of the events specified in subdivision (b), the licensee of a skilled nursing facility shall notify the department of the occurrence. This notification may be in written form if it is provided by telephone facsimile or by overnight mail, or by telephone with a written confirmation within five calendar days. The information provided pursuant to this subdivision may not be released to the public by the department unless its release is needed to justify an action taken by the department or it otherwise becomes a matter of public record. A violation of this section is a class ''B'' violation.

(b) All of the following occurrences shall require notification pursuant to this section:

(1) The licensee of a facility receives notice that a judgment lien has been levied against the facility or any of the assets of the facility or the licensee.

(2) A financial institution refuses to honor a check or other instrument issued by the licensee to its employee for a regular payroll.

(3) The supplies, including food items and other perishables, on hand in the facility fall below the minimum specified by any applicable statute or regulation.

(4) The financial resources of the licensee fall below the amount needed to operate the facility for a period of at least 45 days, based on the current occupancy level.

(5) The licensee fails to make timely payment of any premiums required to maintain required insurance policies or bonds in effect, or any tax lien levied by any government agency.

SEC. 13. Section 1421.2 is added to the Health and Safety Code, to read:

1421.2. (a) There is hereby established in the State Department of Health Services the Skilled Nursing Facility Financial Solvency Advisory Board, which shall be composed of eight members.

(b) The members shall consist of the director or the director's designee, and seven members appointed by the director.

(c) The seven members appointed by the director may be, but are not necessarily limited to, individuals with training and experience in the following areas or fields:

(1) Medical and health care economics.

(2) Accountancy.

(3) research or actuarial studies in the area of skilled nursing facilities.

(4) Management or administration of health care delivery systems.

(d) One of the members appointed by the director shall be a representative of a collective bargaining agent.

(e) The purpose of the board shall be to do all of the following:

(1) Advise the director on matters of financial solvency affecting the delivery of services in skilled nursing facilities.

(2) Develop and recommend to the director financial solvency licensing requirements and standards.

(3) Periodically monitor and report on the implementation and results of the financial solvency licensing requirements and standards.

(f) The board shall meet at least quarterly and at the call of the chair. In order to preserve the independence of the board, the director shall not serve as chair. The members of the board may establish their own rules and procedures. All members shall serve without compensation, but shall be reimbursed from department funds for expenses actually and necessarily incurred in the performance of their duties.

(g) For purposes of this section, ''board'' means the Skilled Nursing Facility Financial Solvency Advisory Board.

(h) Financial solvency licensing requirements and standards recommended to the director by the board may, after a period of review and comment, not to exceed 45 days, and if adopted by the director, be noticed for adoption as regulations as proposed or modified under 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). During the director's 45-day review and comment period, the director, in consultation with the board, may postpone the adoption of the licensing requirements and standards pending further review and comment.

(i) The board shall report to the director by July 1, 2002, on its recommendations.

(j) This section 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.

SEC. 14. Section 1797.112 of the Health and Safety Code is amended to read:

1797.112. (a) The Emergency Medical Services Personnel Fund is hereby created in the State Treasury, the funds in which are to be held in trust for the benefit of the authority's testing and personnel licensure program and for the purpose of making reimbursements to entities for the performance of functions for which fees are collected pursuant to Section 1797.172, for expenditure upon appropriation by the Legislature.

(b) The authority may transfer unused portions of the Emergency Medical Services Personnel Fund to the Surplus Money Investment Fund. Funds transferred to the Surplus Money Investment Fund shall be placed in a separate trust account, and shall be available for transfer to the Emergency Medical Services Personnel Fund, together with interest earned, when requested by the authority.

(c) The authority shall maintain a reserve balance in the Emergency Medical Services Personnel Fund of five percent. Any increase in the fees deposited in the Emergency Medical Services Personnel Fund shall be effective upon a determination by the authority that additional moneys are required to fund expenditures of the personnel licensure program, including, but not limited to, reimbursements to entities set forth in subdivision (a).

SEC. 15. Section 101230 of the Health and Safety Code is amended to read:

101230. From the appropriation made for the purposes of this article, allocation shall be made to the administrative bodies of

qualifying local health jurisdictions described as public health administrative organizations in Section 101185 in the following manner:

(a) A basic allotment as follows:

To the administrative bodies of local health jurisdictions a basic allotment of one hundred thousand dollars ($100,000) per local health jurisdiction or twenty-one and two-tenths cents ($0.212426630) per capita, whichever is greater. The population estimates used for the calculation of the per capita allotment shall be based on the Department of Finance's E-1 Report, ''City/County Population Estimates with Annual Percentage Changes'' as of January 1 of the previous fiscal year. However, if within a county there are one or more city health jurisdictions, the county shall subtract the population of the city or cities from the county total population for purposes of calculating the per capita total. If the amounts appropriated are insufficient to fully fund the allocations specified in this subdivision, the State Department of Health Services shall prorate and adjust each local health jurisdiction's allocation using the same percentage that each local health jurisdiction's allocation represents to the total appropriation under the allocation methodology specified in this subdivision.

(b) A per capita allotment, determined as follows:

After deducting the amounts allowed for the basic allotment as provided in subdivision (a), the balance of the appropriation, if any, shall be allotted on a per capita basis to the administrative body of each local health jurisdiction in the proportion that the population of that local health jurisdiction bears to the population of all qualified local health jurisdictions of the state.

(c) Beginning in the fiscal year 1998–99, funds appropriated for the purposes of this article shall be used to supplement existing levels of the services described in paragraphs (1) and (2) of subdivision (d) provided by qualifying participating local health jurisdictions. As part of a county's or city's annual realignment trust fund report to the Controller, a participating county or city shall annually certify to the Controller that it has deposited county or city funds equal to or exceeding the amount described in subdivisions (a) and (b) of Section 17608.10. The county or city shall not be required to submit any additional reports or modifications to existing reports to document compliance with this subdivision. Funds shall be disbursed quarterly in advance to local health jurisdictions beginning July 1, 1998. If a county or city does not accept its allocation, any unallocated funds provided under this section shall be redistributed according to subdivision (b) to the participating counties and cities that remain.

(d) Funds shall be used for the following:

(1) Communicable disease control activities. Communicable disease control activities shall include, but not be limited to, communicable

disease prevention, epidemiologic services, public health laboratory identification, surveillance, immunizations, followup care for sexually transmitted disease and tuberculosis control, and support services.

(2) Community and public health surveillance activities. These activities shall include, but not be limited to, epidemiological analyses, and monitoring and investigating communicable diseases and illnesses due to other untoward health events.

(e) Funds shall not be used for medical services, including jail medical treatment, except as provided in subdivision (d).

SEC. 16. Section 104160 of the Health and Safety Code is repealed.

SEC. 17. Section 104160 is added to the Health and Safety Code, to read:

104160. The State Department of Health Services shall utilize existing mechanisms to maintain, expand, and ensure quality breast cancer treatment for low-income, and uninsured persons who are diagnosed with breast cancer. The department shall award one or more contracts to provide breast cancer treatment through private or public nonprofit organizations, including, but not limited to, community-based organizations, local health care providers, and the University of California medical centers. The contracts shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 18. Section 104161 of the Health and Safety Code is amended to read:

104161. For purposes of this chapter, breast cancer treatment shall include, but shall not be limited to, lumpectomy, mastectomy, chemotherapy, hormone therapy, radiotherapy, and reconstructive surgery.

SEC. 19. Section 104162 of the Health and Safety Code is amended to read:

104162. Treatment under this chapter shall be provided to uninsured and underinsured persons with incomes at or below 200 percent of the federal poverty level.

SEC. 20. Section 104163 of the Health and Safety Code is amended to read:

104163. The department shall contract for breast cancer treatment services only at the level of funding budgeted from state and other sources during a fiscal year in which the Legislature has appropriated funds to the department for this purpose.

SEC. 21. Section 104164 of the Health and Safety Code is repealed.

SEC. 22. Article 1.7 (commencing with Section 104170) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, to read:

Article 1.7. Human Leukocyte Antigen Testing Fund

104170. (a) The Human Leukocyte Antigen Testing Fund is hereby established in the State Treasury, to be administered by the State Department of Health Services. Moneys in the fund shall be subject to appropriation in the annual Budget Act, and shall be used to pay the costs of blood collection and human leukocyte antigen typing, also referred to as histocompatibility locus antigen (HLA) testing, for A, B, and DR antigens for use in bone marrow transplantation by California blood centers under contract with the federal National Marrow Donor Program provided for pursuant to Public Law 101-302.

(b) Moneys in the fund may only be expended if the individual being tested completes and signs a informed consent form authorizing the use of test results for participation in the federal program referred to in subdivision (a). The form shall require a declaration from the donor as to whether he or she has health plan benefits that would cover the cost of HLA testing. Moneys in the fund shall not be used to pay for the testing of a health plan enrollee if the health plan covers the cost of HLA testing for the enrollee.

SEC. 23. The Legislature finds and declares all of the following:

(a) Asthma is a chronic respiratory illness of enormous public health significance.

(b) Asthma is a disease that affects an estimated 2,000,000 Californians.

(c) Asthma is a leading cause of preventable hospitalization and absenteeism from school and work.

(d) In 1995, there were approximately 42,000 asthma-related hospital stays in California, including about 17,000 for children, costing over three hundred fifty million dollars ($350,000,000). Nearly 40 percent of those hospital stays were funded by the Medi-Cal program.

(e) Asthma is one of the most chronic conditions in children. It is a leading cause of school absences, and is one of the leading causes of hospital admissions for children in California.

(f) Although asthma is a major health problem, our scientific understanding of asthma has dramatically improved in recent years, and national guidelines for asthma diagnosis and management have been published to bridge the gap between the latest scientific-based evidence and actual practice.

(g) Researchers understand more about the environmental and social risk factors for asthma, and several asthma self-management programs have been developed allowing patients and their families to better understand and manage asthma.

(h) Despite this new understanding, asthma prevalence and death rates have increased over the last two decades.

(i) Asthma remains an especially severe health problem for certain populations, including African-Americans and those living in poverty. Asthma-related hospitalization and death rates for African-Americans are alarmingly high.

(j) New and innovative models for asthma management, which improve upon prior experience, must be developed and implemented. A successful asthma control program will continuously incorporate the latest scientific advances to improve the health of the state's population.

(k) In addition, factors that contribute to asthma morbidity, such as environmental and occupational exposures, must be evaluated and controlled. Allergens have been found to be an important trigger factor for asthma. These include pollen, fungi, mold, animal dander, cockroach allergens, and certain foods.

(*l*) Successful asthma control programs will require coordination of the efforts of individuals, families, health care providers, health care systems, school systems, employers, and state and local governments.

(m) Reducing the burden of asthma, especially among the most severely impacted populations, will require well-coordinated, long-term, multilevel programs.

SEC. 24. Chapter 6.5 (commencing with Section 104316) is added to Part 1 of Division 103 of the Health and Safety Code, to read:

CHAPTER 6.5. REDUCTION OF ASTHMA THROUGH ASSESSMENT, INTERVENTION, AND EVALUATION

104316. (a) Contingent upon appropriation in the annual Budget Act, the State Department of Health Services shall do all of the following:

(1) Regularly analyze asthma morbidity and mortality data, and shall periodically assess the burden of asthma on the state's medical and economic resources, and identify those populations most seriously affected by the disease.

(2) Survey factors known to worsen asthma, including allergy induced asthma, such as cockroach allergens and molds, in order to estimate the relative importance of these factors in California.

(3) Assess patterns of medical care and population-based health services, and the extent of ongoing local, regional, educational, environmental, and other asthma interventions and related activities.

(b) The information gained pursuant to subdivision (a) shall be used to guide the development of public health programs and asthma policy.

104317. (a) The department shall offer public and professional education to disseminate the most current information on asthma.

(b) The department shall assist health care organizations, such as managed care organizations, in identifying or developing effective

asthma diagnosis and treatment protocols. The department shall improve clinical practice by working with experts, partnering with health care organizations, and conferring with interested constituencies.

(c) (1) Despite the necessity for increased information regarding asthma causation, there is also an urgent need to apply existing knowledge to reduce the burden on state resources due to asthma. Thus, the department shall administer available funds to organizations that propose promising, innovative asthma interventions that benefit persons with asthma and their families by increasing community awareness, improving patient education and asthma self-management skills, improving clinical practice, coordinating services, and developing local policies that support the prevention and control of asthma and environmental factors that can trigger asthma attacks.

(2) The department shall ensure that the projects are scientifically based and practical, and that a range of significant asthma prevention and control issues are addressed. The projects shall address both adult and pediatric asthma populations. Projects may include, but need not be limited to, the following:

(A) Clinical quality improvement.

(B) Disease management.

(C) Public and professional education, including information on asthma self-management skills and ways to reduce or eliminate allergens and irritants that exacerbate asthma, such as cockroaches, dust mites, and molds.

(D) Mobilization of communities including local health departments, community agencies, and other organizations.

(E) Unique exposure interventions for special or at-risk populations.

(F) Innovative collaborations between managed care organizations, local organizations, health systems, academic institutions, voluntary health organizations, and local governments.

(G) Reducing environmental factors that have been found to trigger asthma attacks.

(d) The department shall promote the utilization of evidence-based asthma guidelines, such as the National Institute of Health's National Asthma Education and Prevention Programs's asthma guidelines, to carry out the purposes of this chapter.

104318. The department shall do all of the following in connection with the administration of funds provided to implement this chapter:

(a) Draft and circulate requests for applications.

(b) Determine selection criteria, consult with applicants, and monitor the progress of projects.

(c) Require specific evaluations of projects, require plans for implementation of effective programs, and prepare a summary of findings from all projects conducted.

(d) Consult with community stakeholders for the development, implementation, and evaluation of asthma prevention and control programs.

104319. The department shall monitor the clinical and public interventions required by this chapter, and shall report successful and unsuccessful interventions in clinical and public health practice.

104320. The department shall establish and maintain a surveillance and intervention program for the prevention of asthma.

104321. The department shall implement this chapter contingent on the appropriation of funds in the annual Budget Act.

SEC. 25. Chapter 7 (commencing with Section 104320) is added to Part 1 of Division 103 of the Health and Safety Code, to read:

CHAPTER 7. PROSTATE CANCER TREATMENT PROGRAM

104320. (a) The State Department of Health Services shall develop, expand, and ensure quality prostate cancer treatment to low-income and uninsured men. The department shall award one or more contracts to provide prostate cancer treatment through private or public nonprofit organizations, including, but not limited to, community-based organizations, local health care providers, and the University of California medical centers. The contracts shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(b) Treatment provided under this chapter shall be provided to uninsured and underinsured men with incomes at or below 200 percent of the federal poverty level.

(c) The department shall contract for prostate cancer treatment services only at the level of funding budgeted from state and other sources during a fiscal year in which the Legislature has appropriated funds to the department for this purpose.

SEC. 26. Section 104775 of the Health and Safety Code is amended to read:

104775. A community dental disease prevention program may be offered to school children in preschool through sixth grade, and in classes for individuals with exceptional needs, by a local sponsor. A local sponsor may be a city or county health department, county office of education, superintendent of schools office, school district or other public or private nonprofit agency approved by the department. The program shall include, but not be limited to, the following:

(a) Educational programs, focused on development of personal practices by pupils, that promote dental health. Emphasis shall include, but not be limited to, causes and prevention of dental diseases, nutrition

and dental health, and the need for regular dental examination with appropriate repair of existing defects.

(b) Preventive services including, but not limited to, ongoing plaque control, dental sealants, and supervised application of topical prophylactic agents for caries prevention, in accordance with this article or other preventive agents approved by the department. Services shall not include dental restoration, orthodontics, or extraction of teeth. Any acts performed, or services provided, under this article constituting the practice of dentistry shall be performed or provided by, or be subject to the supervision of, a licensed dentist in accordance with Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

SEC. 27. Section 104795 of the Health and Safety Code is amended to read:

104795. The department shall review the program proposals and approve programs that meet criteria established pursuant to Section 104785. The department shall, commencing July 1, 2000, through contractual arrangements, reimburse local sponsors with approved programs at an amount of ten dollars ($10.00), per participating child per year for administration and services, pursuant to Section 104775.

SEC. 28. Section 124010 of the Health and Safety Code is amended to read:

124010. (a) It is the intent of the Legislature to establish demonstration projects to assist medically fragile infants, children, and adolescents.

(b) It is further the intent of the Legislature that these demonstration projects serve as models for methods of providing primary care services and coordination of health care for medically fragile infants, children, and adolescents.

(c) The Legislature finds and declares that the use of care management services under these demonstration projects will lead to savings in medical costs through reduced emergency room visits, hospital admissions, and other medical indicators and measures.

SEC. 29. Section 124011 of the Health and Safety Code is amended to read:

124011. There is hereby established demonstration projects to provide a medical home and coordination of care model in order to reduce avoidable health problems of chronically, seriously ill infants, children, and adolescents. The demonstration projects may operate for a period of up to three years. Existing demonstration projects may be extended for up to two years, if outcome data display effectiveness as determined by the State Department of Health Services.

SEC. 30. Section 124012 of the Health and Safety Code is amended to read:

124012. The department shall award funding appropriated for purposes of this article, on a competitive basis, to any nonprofit children's hospitals, as defined in Section 10727 of the Welfare and Institutions Code, and other hospitals that operate at least 10 special care centers, as certified by the California Childrens' Services Program.

SEC. 31. Section 124013 of the Health and Safety Code is amended to read:

124013. The demonstration projects shall provide care management services to children enrolled in the demonstration projects pursuant to proposals accepted by the department.

Demonstration projects shall meet all of the following requirements:

(a) Establish and function as a medical home to a population of infants, children, and adolescents whose medical conditions requires multidisciplinary and multispecialty care.

(b) Provide care coordination between primary care and specialty health care providers and community agencies for project enrollees.

(c) Provide, or arrange for the provision of, health care services to maintain optimal health status. These services may include, but need not be limited to, physician office or home visits, psychosocial counseling, and medical nutrition evaluation and counseling.

(d) Establish a relationship with an enrollee's parent or guardian in order to enhance the understanding of the child's condition and the parent or guardian's participation in the enrollee's medical treatment plan and decisionmaking.

(e) Maximize the use of third-party reimbursement for the services provided to the population enrolled in the project.

SEC. 32. Section 124014 of the Health and Safety Code is amended to read:

124014. In order to most effectively assist children enrolled in the demonstration project, the demonstration project may employ the use of clinic visits, home visits, school visits, inpatient visits, and multidisciplinary conferences, as well as other innovative care management techniques.

SEC. 33. Section 124015 of the Health and Safety Code is amended to read:

124015. (a) The hospital receiving funding under this article shall submit a report to the department that evaluates the demonstration project and includes measures of medical costs and improved health outcomes of enrollees.

(b) The report shall address the following outcome measures as identified in the hospital's demonstration project submitted to the department for approval.

(c) The report required by subdivision (a) shall include a determination as to whether the demonstration project is deemed to be

successful. Unless other outcome measures are used pursuant to subdivision (d), the demonstration project shall be deemed to be successful if all of the following have occurred:

(1) The average number of school days missed is decreased by 50 percent.

(2) The average number of emergency room visits is decreased by 50 percent.

(3) The average number of hospitalizations and hospital days is decreased by 50 percent.

(4) The number of children with up-to-date immunizations is increased by 50 percent.

(d) The demonstration project may use other outcome measures in lieu of those identified in subdivision (c), if deemed appropriate by the department, to measure success.

(e) The determinations made pursuant to this subdivision shall be based on a comparison of the preprogram utilization rates, which is data collected one year prior to enrollment in the program, with the utilization rates one year after enrollment.

SEC. 34. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventative health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) Except as provided for in paragraph (3), in order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Are located in an area federally designated as a medically underserved area or medically underserved population.

(ii) Are clinics that are able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventative health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, ''uncompensated care'' means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims and other unreimbursed visits as verified by the department according to subparagraph (A) of paragraph (5).

(3) In the 1998–99 fiscal year, the department shall allocate funds for a three-year period as follows:

(A) If the funds available for the purposes of this article are equal to or less than the prior fiscal year, clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that funding award is substantiated by the clinics' reported levels of uncompensated care. The remaining funds beyond 90 percent shall be awarded in the following order:

(i) First priority shall be given to clinics that participated in the program in prior fiscal years, withdrew from the program due to financial considerations, were subsequently categorized as ''new applicants'' when they reapplied to the program, and received a

significantly reduced allocation as a result. These clinics shall be awarded 90 percent of their allocation prior to their withdrawal from the program, subject to available funds, provided that award level is substantiated by the clinic's reported levels of uncompensated care.

(ii) Second priority shall be given to those clinics that received program funds in the prior year and continue to meet the minimum requirements for funding under this article. In implementing this priority, the department shall allocate funds to all eligible previously funded clinics on a proportionate basis, based on their reported levels of uncompensated care, which may include, but is not limited to, unpaid expanded access to primary care claims and other unreimbursed patient visits, as verified by the department according to subparagraph (A) of paragraph (5).

(B) If funds available for the purposes of this article are equal to or less than the prior fiscal year, only those clinics that received program funds in the prior fiscal year may be awarded funds. Funds shall be awarded in the same priority order as specified in clauses (i) and (ii) of subparagraph (A).

(C) If funds available for purposes of this article are greater than the prior fiscal year, clinics that received funds in the prior fiscal year shall be awarded 100 percent of their prior fiscal year allocation, provided that funding award level is substantiated by the clinic's reported levels of uncompensated care. Remaining funds shall be awarded in the following priority order:

(i) First priority shall be given to clinics that participated in the program in prior fiscal years, withdrew from the program due to financial considerations, were subsequently categorized as ''new applicants'' when they reapplied to the program, and received a significantly reduced allocation as a result. These clinics shall be awarded 100 percent of their allocation prior to their withdrawal from the program, provided that award level is substantiated by the clinic's reported levels of uncompensated care.

(ii) Second priority shall be given to new and existing applicants that meet the minimum requirements for funding under this article. In implementing this priority, the department shall allocate funds to all eligible previously funded clinics on a proportionate basis, based on their reported levels of uncompensated care, which may include, but is not limited to, unpaid expanded access to primary care claims and other unreimbursed patient visits, as verified by the department, according to subparagraph (A) of paragraph (5).

(4) In the 2001–02 fiscal year, and subsequent fiscal years thereafter, the department shall allocate available funds, for a three-year period, based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (5).

(5) In assessing reported levels of uncompensated care, the department shall utilize the most recent data available from the Office of Statewide Health Planning and Development's (OSHPD) completed analysis of the ''Annual Report of Primary Care Clinics.''

(A) In the 1998–99 to 2000–01 fiscal years, inclusive, clinics shall submit updated data regarding the clinic's levels of uncompensated care to the department with their initial application, and for each of the two remaining years in the three-year application period. The department shall compare the clinic's updated uncompensated care data to the OSHPD uncompensated care data for that clinic for the same reporting period. Discrepancies in uncompensated care data for any particular clinic shall be resolved to the satisfaction of the department prior to the award of funds to that clinic.

(B) In the 2001–02 fiscal year, and subsequent fiscal years thereafter, clinics may not submit updated data regarding the clinic's levels of uncompensated care. The department shall utilize the most recent data available from OSHPD's completed analysis of the ''Annual Report of Primary Care Clinics.''

(C) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(6) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars ($35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, ''frontier clinics'' means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(7) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may only claim reimbursement for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a Memorandum of Understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as defined in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) ''Case management'' includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents ($71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than May 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal

rights. Each primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 35. Section 125285 is added to the Health and Safety Code, to read:

125285. The department shall provide public and professional education on Alzheimer's disease to educate consumers, caregivers, and health care providers, and to increase public awareness. If the department determines that contracts are required to implement this section, the department may award these contracts on a sole source basis. The contracts shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. Notwithstanding any other provision of law, the balance of funds appropriated pursuant to the Budget Act of 2000 for Alzheimer's disease education shall be available for encumbrance and expenditure until June 30, 2003.

SEC. 36. Division 109 (commencing with Section 130200) is added to the Health and Safety Code, to read:

DIVISION 109. PARKINSON'S DISEASE COMMUNITY OUTREACH, DIAGNOSIS, AND TREATMENT PROJECT

130200. The department shall award a contract to establish a Parkinson's Disease Community Outreach, Diagnosis, and Treatment Project to a bidder that is a nonprofit medical education, diagnosis, and treatment organization established under Section 501(c)(3) of the federal Internal Revenue Code, affiliated with a licensed publicly funded medical center, and that meets the following eligibility criteria:

(a) The organization has an existing clinical research program for the diagnosis and treatment of Parkinson's disease.

(b) The organization is located in a geographic area that has direct access to an urban population with a high concentration of Parkinson's patients, with strategic access to other communities.

(c) The organization has an existing outreach program that includes ongoing relationships with Parkinson's Support Groups, and medical facilities.

(d) The organization has a demonstrated commitment to provide services to low-income and indigent Parkinson's patients.

130201. For purposes of this division, a Parkinson's disease outreach, diagnosis, and treatment program shall include, but not be limited to, diagnostic and clinical services provided by neurologists specializing in Parkinson's disease diagnosis and treatment, community physician and allied health professional Parkinson's disease and disease management training, patient and care giver educational services in Parkinson's disease and disease management outreach services targeting

Parkinson's patients and caregivers that are from communities of color that would not otherwise have access to those services, family and other caregiver emotional support services, and nonmedical needs referral linkages staff.

130202. The department shall contract for Parkinson's disease services only at the level of funding budgeted from state and other sources during a fiscal year in which the Legislature has appropriated funds to the department for this purpose. The funds appropriated shall be used to match any funding from non-General Fund sources, including, but not limited to, public nonprofit foundations, if available.

103203. This division shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Section 12693.325 is added to the Insurance Code, to read:

12693.325. (a) Notwithstanding any provision of this chapter, a participating health plan that is licensed and in good standing as required by subdivision (b) of Section 12693.36 may provide application assistance directly to an applicant acting on behalf of an eligible child who telephones, writes, or contacts the plan in person at the plan's place of business, or at a community public awareness event that is open to all participating plans in the county, or at any other site approved by the board, and who requests application assistance.

(b) A participating health plan may provide application assistance to an applicant who is acting on behalf of an eligible or potentially eligible child in any of the following situations:

(1) The child is enrolled in a Medi-Cal managed care plan and the participating health plan becomes aware that the child's eligibility status has or will change and that the child will no longer be eligible for Medi-Cal. In those instances, the plan shall inform the applicant of the differences in benefits and requirements between the Healthy Families Program and the Medi-Cal program.

(2) The child is enrolled in a Healthy Families Program managed care plan and the participating health plan becomes aware that the child's eligibility status has changed or will change and that the child will no longer be eligible for Healthy Families. When it appears a child may be eligible for Medi-Cal benefits, the plan shall inform the applicant of the differences in benefits and requirements between the Medi-Cal program and the Healthy Families Program.

(3) The participating health plan provides employer-sponsored coverage through an employer and an employee of that employer who is the parent or legal guardian of the eligible or potentially eligible child.

(4) The child and his or her family are participating through the participating health plan in COBRA continuation coverage or other

group continuation coverage required by either state or federal law and the group continuation coverage will expire within 60 days, or has expired within the past 60 days.

(5) The child's family, but not the child, is participating through the participating health plan in COBRA continuation coverage or other group continuation coverage required by either state or federal law, and the group continuation coverage will expire within the past 60 days, or has expired within the past 60 days.

(c) A participating health plan employee or other representative that provides application assistance shall complete a certified application assistant training class approved by the State Department of Health Services in consultation with the board. The employee or other representative shall in all cases inform an applicant verbally of his or her relationship with the participating health plan. In the case of an in-person contact, the employee or other representative shall provide in writing to the applicant the nature of his or her relationship with the participating health plan and obtain written acknowledgement from the applicant that the information was provided.

(d) A participating health plan that provides application assistance may not do any of the following:

(1) Directly, indirectly, or through its agents, conduct door-to-door marketing or phone solicitation.

(2) Directly, indirectly, or through its agents, select a health plan or provider for a potential applicant. Instead, the plan shall inform a potential applicant of the choice of plans available within the applicant's county of residence and specifically name those plans and provide the most recent version of the program handbook.

(3) Directly, indirectly, or through its agents, conduct mail or in-person solicitation of applicants for enrollment, except as specified in subdivision (b), using materials approved by the board.

(e) A participating health plan that provides application assistance pursuant to this section is not eligible for an application assistance fee otherwise available pursuant to Section 12693.32, and may not sponsor a person eligible for the program by paying his or her family contribution amounts or copayments, and may not offer applicants any inducements to enroll, including, but not limited to, gifts or monetary payments.

(f) A participating health plan may assist applicants acting on behalf of subscribers who are enrolled with the participating plan in completing the program's annual eligibility review package in order to allow those applicants to retain health care coverage.

(g) Each participating health plan shall submit to the board a plan for application assistance. All scripts and materials to be used during application assistance sessions shall be approved by the board and the State Department of Health Services.

(h) Each participating health plan shall provide each applicant with the toll-free telephone number for the Healthy Families Program.

(i) When deemed appropriate by the board, the board may refer a participating health plan to the Department of Managed Care or the State Department of Health Services, as applicable, for the review or investigation of its application assistance practices.

(j) The board shall evaluate the impact of the changes required by this section, and shall provide a report to the Legislature on or before March 1, 2002. To prepare these reports, the State Department of Health Services, in cooperation with the board, shall code all the application packets used by a managed care plan to record the number of applications received that originated from managed care plans. The number of applications received that originated from managed care plans shall also be reported on the board's website. In addition, the board shall periodically survey those families assisted by plans to determine if the plans are meeting the requirements of this section, and if families are being given ample information about the choice of health plans available to them. The report shall include any recommended changes to this section.

(k) Nothing in the section shall be seen as mitigating a participating health plan's responsibility to comply with all federal and state laws, including, but not limited to, Section 1320a-7b of Title 42 of the United States Code.

(*l*) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 38. Section 12693.326 is added to the Insurance Code, to read:

12693.326. Notwithstanding any other provision of this part, a new subscriber in the program shall be allowed to switch his or her choice of health plan once within the first three months of coverage for any reason.

SEC. 39. Section 12693.76 of the Insurance Code is amended to read:

12693.76. Notwithstanding any other provision of law, a child who is a qualified alien as defined in Section 1641 of Title 8 of the United States Code Annotated shall not be determined ineligible solely on the basis of his or her date of entry into the United States. For the 1999–2000 and 2000–01 fiscal years, these children shall be allowed to participate in the Healthy Families Program for a period of not less than 12 months from the effective date that eligibility is established or redetermined, whether or not federal financial participation is available for services provided to them. For subsequent fiscal years, these children may only participate in the Healthy Families Program upon the state receiving federal matching funds for them under the program.

SEC. 40. The Legislature finds and declares all of the following:

(a) The Legislature recognizes the need for community treatment facilities, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, in California.

(b) These community treatment facilities will provide residential mental health treatment programs for seriously emotionally disturbed children and adolescents who need secure containment and a greater level of care than can be provided in a group home, but in a less restrictive program than those provided by a state or acute care institution.

(c) Community treatment facilities are licensed as community care facilities by the State Department of Social Services and their mental health programs will be certified by the State Department of Mental Health.

(d) The Legislature recognizes that the seriously emotionally disturbed children and adolescents placed in community treatment facilities may exhibit behaviors that are more serious and frequent than those exhibited by children in group homes and other community care facilities.

(e) In order to protect these children from themselves and to protect those around them, and to create a highly structured environment for effective mental health treatment, community treatment facilities are authorized by statute and regulations to lock their exterior doors and to utilize restraint and seclusion.

SEC. 41. Section 4094.1 is added to the Welfare and Institutions Code, to read:

4094.1. (a) (1) The department and the State Department of Social Services, in consultation with community treatment providers, local mental health departments, and county welfare departments, shall develop joint protocols for the oversight of community treatment facilities.

(2) Subject to subdivision (b), until the protocols and regulatory changes required by paragraph (1) are implemented, entities operating community treatment facilities shall comply with the current reporting requirements and other procedural and administrative mandates established in State Department of Mental Health regulations governing community treatment facilities.

(b) In accordance with all of the following, the State Department of Social Services shall modify existing regulations governing reporting requirements and other procedural and administrative mandates, to take into account the seriousness and frequency of behaviors that are likely to be exhibited by children placed in community treatment facilities. The modifications required by this subdivision shall apply for the entire 2000–01 fiscal year.

(1) Notwithstanding existing regulations, the State Department of Social Services shall issue alternative training and education requirements for community treatment facility managers and staff, which shall be developed in consultation with the State Department of Mental Health, patients' rights advocates, local mental health departments, county welfare offices, and providers.

(2) The department and the State Department of Social Services shall conduct joint bimonthly visits to licensed community treatment facilities to monitor operational progress and to provide technical assistance.

(3) The appropriate department shall centrally review any certification or licensure deficiency before notice of the citation is issued to the community care facility.

(4) A community treatment facility shall be exempt from reporting any occurrence of the use of restraint to the State Department of Social Services, unless physical injury is sustained or unconsciousness or other medical conditions arise from the restraint. All other reporting requirements shall apply.

SEC. 42. Section 4094.2 is added to the Welfare and Institutions Code, to read:

4094.2. (a) For the purpose of establishing payment rates for community treatment facility programs, the private nonprofit agencies selected to operate these programs shall prepare a budget that covers the total costs of providing residential care and supervision and mental health services for their proposed programs. These costs shall include categories that are allowable under California's Foster Care program and existing programs for mental health services. They shall not include educational, nonmental health medical and dental costs.

(b) Each agency operating a community treatment facility program shall negotiate a final budget with the local mental health department in the county in which its facility is located (the host county) and other local agencies as appropriate. This budget agreement shall specify the types and level of care and services to be provided by the community treatment facility program and a payment rate that fully covers the costs included in the negotiated budget. All counties that place children in a community treatment facility program shall make payments using the budget agreement negotiated by the community treatment facility provider and the host county.

(c) A foster care rate shall be established for each community treatment facility program by the State Department of Social Services. These rates shall be established using the existing foster care ratesetting system for group homes, with modifications designed as necessary. It is anticipated that all community treatment facility programs will offer the

level of care and services required to receive the highest foster care rate provided for under the current group home ratesetting system.

(d) For the 2000–01 fiscal year, community treatment facility programs shall also be paid a community treatment facility supplemental rate of up to two thousand five hundred dollars ($2,500) per child per month on behalf of children eligible under the foster care program and children placed out of home pursuant to an individualized education program developed under Section 7572.5 of the Government Code. Subject to the availability of funds, the community treatment facility supplemental rate shall be funded by the state, and no county financial participation shall be required. The community treatment facility supplemental rate is intended to supplement, and not to supplant, the payments for which children placed in community treatment facilities are eligible to receive under the foster care program and the existing programs for mental health services.

(e) For initial ratesetting purposes for community treatment facility funding, the cost of mental health services shall be determined by deducting the foster care rate and the community treatment facility supplemental rate from the total allowable cost of the community treatment facility program. Payments to certified providers for mental health services shall be based on eligible services provided to children who are Medi-Cal beneficiaries, up to the statewide maximum allowances for these services.

(f) Although there is statutory authorization for up to 400 community treatment facility beds statewide, it is anticipated that there will be a phased-in implementation of community treatment facilities, and that the average monthly community treatment facility caseload during the 2000–01 fiscal year will be approximately 100. Therefore, an augmentation of three million dollars ($3,000,000) from the state General Fund is being provided to fund community treatment facility supplemental rates for the 2000–01 fiscal year. In the event that, during the course of the 2000–01 fiscal year, it is determined that the implementation of community treatment facilities is proceeding faster than anticipated and the average monthly caseload will exceed 100, the department shall notify the Legislature, upon approval of the Department of Finance, and request a budget augmentation to pay for the additional costs of the community treatment facility supplemental rate.

(g) The department shall provide funding of community treatment facility supplemental rates to the counties for advanced payment to the community treatment facility providers.

(h) The department and the State Department of Social Services shall submit a joint report to the Legislature by April 1, 2001, on the status of their efforts to implement the community treatment facility payment system described in subdivisions (a) to (g), inclusive, and the joint

protocols for the oversight of community treatment facility programs and regulatory changes that take into account the seriousness and frequency of behaviors that are likely to be exhibited by seriously emotionally disturbed children placed in community treatment facilities, as described in Section 4094.1.

(i) It is the intent of the Legislature that the department and the State Department of Social Services work to maximize federal financial participation in funding for children placed in community treatment facilities through funds available pursuant to Titles IV-E and XIX of the federal Social Security Act (Title 42 U.S.C. Sec. 670 and following and Sec. 1396 and following) and other appropriate federal programs.

(j) The department and the State Department of Social Services may adopt emergency regulations necessary to implement joint protocols for the oversight of community treatment facilities, to modify existing licensing regulations governing reporting requirements and other procedural and administrative mandates to take into account the seriousness and frequency of behaviors that are likely to be exhibited by the seriously emotionally disturbed children placed in community treatment facility programs, to modify the existing foster care ratesetting regulations, and to pay the community treatment facility supplemental rate. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of 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. 43. Chapter 4 (commencing with Section 4096.7) is added to Part 1 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 4. DUAL DIAGNOSIS PILOT PROJECT

4096.7. (a) Contingent upon the appropriation of funds in the annual Budget Act, commencing September 15, 2000, the State Department of Mental Health shall conduct a three-year pilot project under which funds shall be allocated to serve persons from culturally diverse, underserved populations, including clients from the Asian and Pacific Islander community and clients from the Latino community, who are dually diagnosed with both a mental illness and substance abuse problem.

(b) The department may develop and issue a request for proposals from county mental health departments and nonprofit organizations

soliciting participation in the pilot project. System stakeholders shall be consulted in the development of the request for proposals and selection of each pilot area. At least two pilot areas shall be selected.

(c) Each eligible proposal shall, at a minimum, describe how the proposed pilot program will meet the following goals and objectives:

(1) Expand the continuum of culturally competent services and supports.

(2) Improve coordination of substance abuse and mental health services between programs or across counties in order to maximize the utilization of services and supports.

(3) Improve clinical standards in order to be able to provide culturally appropriate services and supports.

(4) Unify administrative policies between programs or across counties in order to provide more seamless services and supports and to better track and record utilization of services and supports.

(5) Develop long-term, cost-effective, multiprogram, or multicounty services to maximize the utilization of public dollars.

(d) Each eligible proposal shall include a description of specific activities to be accomplished by the pilot project, including, but not limited to:

(1) A needs assessment for the target populations.

(2) A description of the roles of community and local government partners under the pilot project.

(3) How service and support infrastructure will be developed to meet the needs of the target population, including the development of new services, enhancement of existing services, recruitment and training of culturally sensitive staff, and development and implementation of clinical policies and protocols.

(4) How outreach and enrollment will be accomplished.

(e) Each eligible proposal shall include an evaluation component, including, but not limited to:

(1) The extent to which goals and objectives have been met.

(2) Client satisfaction.

(3) Community satisfaction.

(4) Cost analysis.

(f) Each pilot project funded under this section shall submit to the department its evaluation, along with recommendations for the continuation or expansion of the program, by July 15, 2002.

(g) The department shall issue a report to the Legislature no later than September 1, 2002, on implementation of the pilot projects funded by this chapter and recommendations with respect to continuation and expansion.

(h) This chapter shall become inoperative on June 30, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that

becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 44. Chapter 5 (commencing with Section 4097) is added to Part 1 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 5. EARLY INTERVENTION MENTAL HEALTH PROGRAM

4097. There is hereby established, under the administration of the State Department of Mental Health, an Early Intervention Mental Health Program. This program shall provide services to infants and toddlers, from birth to three years of age, and their families. To the extent funding is available through the annual Budget Act, and professional collaborative relationships have been established, the program may be expanded beyond the 1999–2000 pilot project focus on children who have been diagnosed with a developmental disability or delay or who are at risk of a developmental disability or delay.

4097.1. Up to three million dollars ($3,000,000) may be allocated on an annual basis for three years to the department for this program. No more than 5 percent of these funds may be used for state administrative costs.

4097.2. Program services shall be designed to facilitate a relationship-based approach that promotes optimal social and emotional development of the child in interactions between parent, or primary caregiver and child, and shall include both prevention and treatment aspects. A key component of the program shall include training of, and technical assistance to, public and private agencies that currently provide, or plan to provide, early intervention mental health services.

4097.3. The program shall be formally evaluated by the department and the results of the evaluation reported to the fiscal and policy committees of the Legislature before any additional state funding is authorized beyond June 30, 2003. The department shall provide interim annual progress reports to the Legislature by March 1, 2001, and 2002, which shall include data on the progress of implementation and findings to date.

SEC. 44.5. Chapter 6 (commencing with Section 4098) is added to Part 1 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 6. SUICIDE PREVENTION PROGRAMS

4098. The Legislature finds and declares all of the following:

(a) The Surgeon General of the United States has described suicide prevention as a serious public health priority, and has called upon each state to develop a strategy for suicide prevention using a public health approach.

(b) In 1996, 3,401 Californians lost their lives to suicide, an average of nine residents per day. It is estimated that there are between 75,000 and 100,000 suicide attempts in California every year. 11 percent of all suicides in the nation take place in California.

(c) Adolescents are far more likely to attempt suicide than their older California counterparts. Data indicate that there are 100 attempts for every adolescent suicide completed. In 1996, 207 California youth died by suicide. Using this estimate, there were likely more than 20,000 suicide attempts made by California adolescents, and approximately 20 percent of all the estimated suicide attempts occurred in California.

(d) Of all of the violent deaths associated with schools nationwide since 1992, 14 percent were suicides.

(e) Homicide and suicide rank as the third and fifth leading causes of death for youth, respectively. Both are preventable. While the death rates for unintentional injuries decreased by more than 40 percent between 1979 and 1996, the death rates for homicide and suicide increased for youth. Evidence is growing in terms of the links between suicide and other forms of violence. This provides compelling reasons for broadening the state's scope in identifying risk factors for self-harmful behavior. The number of estimated youth suicide attempts; and the growing concerns of youth violence can best be addressed through the implementation of successful gatekeeper training programs to identify and refer youth at risk for self-harmful behavior.

(f) The American Association of Suicidology (AAS) conservatively estimates that the lives of at least six persons related to or connected to individuals who attempt or complete suicide are impacted. Using these estimates, in 1996, more than 600,000 Californians, or 1,644 individuals per day, struggled to cope with the impact of suicide.

(g) Restriction of access to lethal means significantly reduces the number of successful suicides.

(h) Actual incidents of suicide attempts are expected to be higher than reported because attempts not requiring medical attention are less likely to be reported. The underreporting of suicide completion is also likely since suicide classification involves conclusions regarding the intent of the deceased. The stigma associated with suicide is also likely to contribute to underreporting.

(i) Without interagency collaboration and support for proven, community-based, culturally competent suicide prevention and intervention programs, occurrences of suicide are likely to rise.

4098.1. (a) This chapter shall be known and may be cited as the California Suicide Prevention Act of 2000.

4098.2. (a) The State Department of Mental Health, contingent upon appropriation in the annual Budget Act, may establish and implement a suicide prevention, education, and gatekeeper training

program to reduce the severity, duration, and incidence of suicidal behaviors.

(b) In developing and implementing the components of this program, the department shall build upon the existing network of nonprofit suicide prevention programs in the state, and shall utilize the expertise of existing suicide prevention programs that meet any of the following criteria:

(1) Have been identified by a county as providing suicide prevention services for that county.

(2) Are certified by the American Association of Suicidology.

(3) Meet criteria for suicide prevention programs that may be established by the department.

(c) The program established by this section shall be consistent with the public health model proposed by the Surgeon General of the United States, and the system of care approach pursuant to the Bronzan-McCorquodale Act, Part 2 (commencing with Section 5600) of Division 5.

4098.3. The department may contract with an outside agency to establish and implement a targeted public awareness and education campaign on suicide prevention and treatment. Target populations shall include junior high and high school students, as well as other selected populations known to be at high risk of suicide.

4098.4. (a) The department may contract with local mental health organizations and professionals with expertise in the assessment and treatment of suicidal behaviors to develop an evidence-based assessment and prevention program for suicide that may be integrated with local mental health departments or replicated by public or private suicide treatment programs, or both.

(b) This component may include the creation of guidebooks and training protocols to improve the intervention capabilities of caregivers who work with individuals at risk of suicide. Applicants may reflect several gatekeeper training models that can be replicated in other communities.

4098.5. The department may establish and implement, or contract with an outside agency for the development of a multicounty, 24-hour, centralized suicide crisis line integrated network. Existing crisis lines that meet specifications of the department and the American Association of Suicidology may be included in this integrated network. The crisis line established under this section shall link persons at risk of committing suicide with local suicide prevention and treatment resources.

SEC. 45. Section 4107.1 is added to the Welfare and Institutions Code, to read:

4107.1. Consistent with the authority of the State Department of Mental Health to maintain and operate state hospitals under its jurisdiction, the State Department of Mental Health shall provide internal security for the patient population at Patton State Hospital. The State Department of Mental Health may employ hospital police at Patton State Hospital for this purpose.

This section is not intended to increase or decrease the duties and responsibilities of the Department of Corrections at Patton State Hospital.

SEC. 46. Section 4598.5 is added to the Welfare and Institutions Code, to read:

4598.5. If, in the unforeseen event that federal funds are not available for appropriation or transfer to Item 4110-001-0001 of Section 2.00 of the Budget Act of 2000 for support of the Organization of Area Boards on Developmental Disabilities, from Item 4100-001-0890 of Section 2.00 of the Budget Act of 2000 based on a determination by the Department of Finance, the Department of Finance shall notify the appropriate fiscal and policy committees of the Legislature and the Joint Legislative Budget Committee within 10 calendar days of this determination. This notification shall specify the dollar amount needed to fully continue operations of the Organization of Area Boards on Developmental Disabilities, and this amount is hereby appropriated from the General Fund for those purposes, commencing 10 days after the receipt of the notification by the Legislature.

SEC. 47. Section 4639.5 is added to the Welfare and Institutions Code, to read:

4639.5. (a) By December 1 of each year, each regional center shall provide a listing to the State Department of Developmental Services a complete current salary schedule for all personnel classifications used by the regional center. The information shall be provided in a format prescribed by the department. The department shall provide this information to the public upon request.

(b) By December 1 of each year, each regional center shall report information to the State Department of Developmental Services on all prior fiscal year expenditures from the regional center operations budget for all administrative services, including managerial, consultant, accounting, personnel, labor relations, and legal services, whether procured under a written contract or otherwise. Expenditures for the maintenance, repair or purchase of equipment or property shall not be required to be reported for purposes of this subdivision. The report shall be prepared in a format prescribed by the department and shall include, at a minimum, for each recipient the amount of funds expended, the type of service, and purpose of the expenditure. The department shall provide this information to the public upon request.

SEC. 48. Section 4689.7 of the Welfare and Institutions Code is amended to read:

4689.7. (a) For the 1998–99 fiscal year, levels of payment for supported living service providers that are vendored pursuant to Section 4689 shall be increased based on the amount appropriated in this section for the purpose of increasing the salary, wage, and benefits for direct care workers providing supported living services.

(b) The sum of five million fifty-seven thousand dollars ($5,057,000) is hereby appropriated in augmentation of the appropriations made in the Budget Act of 1998 to implement this section as follows:

(1) The sum of two million four hundred five thousand dollars ($2,405,000) is hereby appropriated from the General Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0001.

(2) The sum of two million five hundred fifty-one thousand dollars ($2,551,000) is hereby appropriated from the Federal Trust Fund to the State Department of Health Services in augmentation of the appropriation made in Item 4260-101-0890.

(3) The sum of one hundred one thousand dollars ($101,000) is hereby appropriated from the General Fund to the Department of Developmental Services in augmentation of the appropriation made in Item 4300-101-0001, scheduled as follows:

10.10—Regional Centers	
(b) 10.10.020 Purchase of Services	$5,057,000
(e) Reimbursements	–$4,956,000

(c) By July 1, 2002, in consultation with stakeholder organizations, the department shall establish by regulation, an equitable and cost-effective methodology for the determination of supported living costs and a methodology of payment for providers of supported living services. The methodology shall consider the special needs of persons with developmental disabilities and the quality of services to be provided.

SEC. 49. Section 4791 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

(2) Within 30 days of the enactment of the Budget Act or after the date a regional center notifies the department of a projected deficit in its purchase of services budget, each impacted regional center shall develop and submit a plan to the department describing in detail how it intends to absorb any unallocated reduction and shall achieve savings necessary to provide services to eligible consumers throughout the fiscal year within the limitations of the funds allocated. Prior to adopting the plan, each regional center shall hold a public hearing in order to receive comment on the plan. The regional centers shall provide notice to the community at least 10 days in advance of the public hearing. The regional center shall summarize and respond to the public testimony in their plan.

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

(A) Innovative and cost-effective methods of services delivery that include, but are not limited to, the use of vouchers; the use of consumers and parents as service coordinators; alternative methods of case management; the use of volunteer teams, made up of consumers, parents, other family members, and advocates, to conduct the monitoring activities described in Section 4648.1; increased administrative efficiencies; alternative sources of payment for services; use of available assessments in determining eligibility; and alternative nonresidential rate methodologies or service delivery models, or both. In addition, the regional center shall take into account, in identifying the

consumer's service needs, the family's responsibility for providing similar services to a child without disabilities.

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

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

(4) The regional centers shall implement components of their plans upon approval of the department. The department shall review and approve, or require modification of portions of the regional centers' plan, within 30 days of receipt of the plan. If the required modification is significant, the department shall require the regional center to hold an additional public hearing to review and comment on the modification.

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

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

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

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

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

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

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

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

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

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

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

(*l*) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 50. Section 5600.8 is added to the Welfare and Institutions Code, to read:

5600.8. (a) The department may allocate the funds appropriated in Schedule (b) of Item 4440-101-0001 of the Budget Act of 2000, to county mental health programs that meet programmatic goals and model adult system of care programs to the satisfaction of the department. The department shall audit and monitor the use of these funds to ensure they are used solely in support of Adult System of Care programming. If county programs receiving adult system of care funding do not comply with program and audit requirements determined by the department, funding shall be redistributed to other counties to implement, expand, or model adult systems of care.

(b) The department may allocate the funds appropriated in Schedule (c) of Item 4440-101-0001 of the Budget Act of 2000, to county mental health programs for Children's System of Care programming. These

funds shall be utilized by counties only in support of a mental health system serving seriously emotionally disturbed children, in accordance with the principles and program requirements associated with the system of care model, as set forth in Part 4 (commencing with Section 5850). The department shall audit and monitor the use of these funds to ensure they are used solely in support of the Children's System of Care program. If county programs receiving children's system of care funding do not comply with program and audit requirements determined by the department, funds shall be redistributed to other counties to implement, expand, or model children's system of care programming.

SEC. 51. Section 5614 is added to the Welfare and Institutions Code, to read:

5614. (a) The department, in consultation with the Compliance Advisory Committee which shall have representatives from relevant stakeholders, including, but not limited to, local mental health departments, local mental health boards and commissions, private and community-based providers, consumers and family members of consumers, and advocates, shall establish a protocol for ensuring that local mental health departments meet statutory and regulatory requirements for the provision of publicly funded community mental health services provided under this part.

(b) The protocol shall include a procedure for review and assurance of compliance for all of the following elements, and any other elements required in law or regulation:

(1) Financial maintenance of effort requirements provided for under Section 17608.05.

(2) Each local mental health board has approved procedures that ensure citizen and professional involvement in the local mental health planning process.

(3) Children's services are funded pursuant to the requirements of Sections 5704.5 and 5704.6.

(4) The local mental health department complies with reporting requirements developed by the department.

(5) To the extent resources are available, the local mental health department maintains the program principles and the array of treatment options required under Sections 5600.2 to 5600.9, inclusive.

(7) The local mental health department meets the reporting required by the performance outcome systems for adults and children.

(c) The protocol developed pursuant to subdivision (a) shall focus on law and regulations and shall include, but not be limited to, the items specified in subdivision (b). The protocol shall include data collection procedures so that state review and reporting may occur. The protocol shall also include a procedure for the provision of technical assistance, and formal decision rules and procedures for enforcement consequences

when the requirements of law and regulations are not met. These standards and decision rules shall be established through the consensual stakeholder process established by the department.

SEC. 52. Section 5614.5 is added to the Welfare and Institutions Code, to read:

5614.5. (a) The department, in consultation with the Quality Improvement Committee which shall include representatives of the California Mental Health Planning Council, local mental health departments, consumers and families of consumers, and other stakeholders, shall establish and measure indicators of access and quality to provide the information needed to continuously improve the care provided in California's public mental health system.

(b) The department in consultation with the Quality Improvement Committee shall include specific indicators in all of the following areas:

(1) Structure.

(2) Process, including access to care, appropriateness of care, and the cost effectiveness of care.

(3) Outcomes.

(c) Protocols for both compliance with law and regulations and for quality indicators shall include standards and formal decision rules for establishing when technical assistance, and enforcement in the case of compliance, will occur. These standards and decision rules shall be established through the consensual stakeholder process established by the department.

(d) The department shall report to the legislative budget committees on the status of the efforts in Section 5614 and this section by March 1, 2001. The report shall include presentation of the protocols and indicators developed pursuant to this section or barriers encountered in their development.

SEC. 53. Section 5618 is added to the Welfare and Institutions Code, to read:

5618. Mental health plans shall be responsible for providing information to potential clients, family members, and caregivers regarding specialty Medi-Cal mental health services offered by the mental health plans upon request of the individual. This information shall be written in a manner that is easy to understand and is descriptive of the complete services offered.

SEC. 54. Section 5675 of the Welfare and Institutions Code is amended to read:

5675. (a) Subject to Section 5768, Placer County and up to 15 other counties may establish a pilot project for up to six years, to develop a shared mental health rehabilitation center for the provision of community care and treatment for persons with mental disorders who are placed in a state hospital or another health facility because no

community placements are available to meet the needs of these patients. Participation in this pilot project by the counties shall be on a voluntary basis.

(b) (1) The department shall establish, by emergency regulation, the standards for the pilot project, and monitor the compliance of the counties with those standards. Participating counties, in consultation with the department, shall be responsible for program monitoring.

(2) The department, in conjunction with the county mental health directors, shall provide an interim report to the Legislature within three years of the commencement of operation of the facilities authorized pursuant to this section regarding the progress and cost effectiveness demonstrated by the pilot project. The department, in conjunction with the county mental health directors, shall report to the Legislature within five years of the commencement of operation of the facilities authorized pursuant to this section regarding the progress and cost effectiveness demonstrated by the pilot project. The report shall evaluate whether the pilot project is effective based on clinical indicators, and is successful in preventing future placement of its clients in state hospitals or other long-term health facilities, and shall report whether the cost of care in the pilot facilities is less than the cost of care in state hospitals or in other long-term health facility options. The evaluation report shall include, but not be limited to, an evaluation of the selected method and the effectiveness of the pilot project staffing, and an analysis of the effectiveness of the pilot project at meeting all of the following objectives:

(A) That the clients placed in the facilities show improved global assessment scores, as measured by preadmission and postadmission tests.

(B) That the clients placed in the facilities demonstrate improved functional behavior as measured by preadmission and postadmission tests.

(C) That the clients placed in the facilities have reduced medication levels as determined by comparison of preadmission and postadmission records.

(3) The pilot project shall be deemed successful if it demonstrates both of the following:

(A) The costs of the program are no greater than public expenditures for providing alternative services to the clients served by the project.

(B) That the benefit to the clients, as described in this subdivision, is improved by the project.

(c) The project shall be subject to existing regulations of the State Department of Health Services applicable to health facilities that the State Department of Mental Health deems necessary for fire and life safety of persons with mental illness.

(d) The department shall consider projects proposed by other counties under Section 5768.

(e) (1) Clients served by the project shall have all of the protections and rights guaranteed to mental health patients pursuant to the following provisions of law:

(A) Part 1 (commencing with Section 5000) and this part.

(B) Article 5 (commencing with Section 835), Article 5.5 (commencing with Section 850), and Article 6 (commencing with Section 860) of Chapter 4 of Title 9 of the California Code of Regulations.

(2) Clients shall have access to the services of a county patients' rights advocates as provided in Chapter 6.2 (commencing with Section 5500) of Part 1.

(f) This section 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. 55. Section 5675.1 is added to the Welfare and Institutions Code, to read:

5675.1. (a) In accordance with subdivision (b), the department may establish a system for the imposition of prompt and effective civil sanctions for long-term care facilities licensed or certified by the department, including facilities licensed under the provisions of Sections 5675 and 5768, and including facilities certified as providing a special treatment program under Sections 72443 to 72474, inclusive, of Title 22 of the California Code of Regulations.

(b) If the department determines that there is or has been a failure, in a substantial manner, on the part of any such facility to comply with the applicable laws and regulations, the director may impose the following sanctions:

(1) A plan of corrective action that addresses all failure identified by the department and includes timelines for correction.

(2) A facility that is issued a plan of corrective action, and that fails to comply with the plan and repeats the deficiency, may be subject to immediate suspension of its license or certification, until the deficiency is corrected, when failure to comply with the plan of correction may cause a health or safety risk to residents.

(c) The department may also establish procedures for the appeal of an administrative action taken pursuant to this section, including a plan of corrective action or a suspension of license or certification.

SEC. 56. Section 5676 is added to the Welfare and Institutions Code, to read:

5676. (a) The department, in conjunction with the State Department of Health Services, shall develop a state-level plan for a

streamlined and consolidated evaluation and monitoring program for the review of skilled nursing facilities with special treatment programs. The plan shall provide for consolidated reviews, reports, and penalties for these facilities. The plan shall include the cost of, and a timeline for implementing, the plan. The plan shall be developed in consultation with stakeholders, including county mental health programs, consumers, family members of persons residing in long-term care facilities who have serious mental illness, and long-term care providers. The plan shall review resident safety and quality programming, ensure that long-term care facilities engaged primarily in diagnosis, treatment, and care of persons with mental diseases are available and appropriately evaluated, and ensure that strong linkages are built to local communities and other treatment resources for residents and their families. The plan shall be submitted to the Legislature on or before March 1, 2001.

(b) The State Department of Health Services shall forward to the State Department of Mental Health copies of citations issued to a skilled nursing facility that has a special treatment program certified by the State Department of Mental Health.

SEC. 57. Section 5676.5 is added to the Welfare and Institutions Code, to read:

5676.5. (a) It is the intent of the Legislature to ensure that funds allocated to establish or enhance mental health programs are used to integrate the new or enhanced program into an existing system of care.

(b) Counties that apply for funds to establish or enhance their mental health service system shall document, in the application process, how the new funds blend into an existing system of care and do not supplant existing expenditures.

(c) Applications shall include plans for services and supports, and shall specify how the new or enhanced program blends into an existing array of services. Applications shall demonstrate how a collaborative process involving clients, family members, and other system stakeholders was used to develop the proposal.

(d) Applications shall include a commitment to outcome reporting, as defined by the department, including client benefit outcomes, client and family member satisfaction, system of care access, cost savings, cost avoidance, and cost effectiveness outcomes that measure both short- and long-term cost savings.

(e) Applications shall demonstrate, when appropriate, how the county intends to continue the new or enhanced program when the grant funds have ended.

SEC. 58. Article 2.5 (commencing with Section 5689) is added to Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code, to read:

Article 2.5. Older Adults System of Care Mental Health Demonstration Project

5689. (a) The State Department of Mental Health shall establish and administer an Older Adults System of Care Demonstration Project, subject to funds appropriated for this purpose, that provides support and funding to develop model systems of care to serve the target population specified in Section 5689.2. Funds appropriated for purposes of this article shall be used to support pilot projects that address the specific needs of older adults with mental illness by testing existing and new models for coordinated, comprehensive service delivery.

(b) The project shall be designed to encourage the development and testing of a coordinated, consumer-focused, comprehensive mental health system of care consistent with the recommendations contained in the California Mental Health Master Plans' Older Adult Chapter.

5689.1. The department shall establish a steering committee for the purposes of this article.

5689.2. (a) The target population to be served pursuant to this article shall be adults who are 60 years of age or older, diagnosed with a mental disorder, as defined by the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, who have a functional impairment, and who meet any of the following criteria:

(1) Are severely and persistently disabled.

(2) Are acutely disabled.

(3) Are impacted by disasters or local emergencies.

(b) For purposes of this article, ''functional impairment'' means a being substantially impaired in major life activities because of a mental disorder in at least two of the following areas on a continuing or intermittent basis:

(1) Independent living.

(2) Social and family relationships.

(3) Vocational skills, employment, or leisure activities.

(4) Basic living skills.

(5) Money management.

(6) Self-care capacities.

(7) Physical condition.

5689.3. The department shall seek proposals and competitively award grants to local mental health departments for a period of up to three years to implement this demonstration project. Grantees shall be representative of different geographic areas of the state to the extent resources are available. The department shall encourage multicounty collaboration.

5689.4. Grantees shall establish or identify a Mental Health and Aging Advisory Coalition comprised of pilot project participants, public

and private sector service providers, senior service consortiums, commissions, boards, and advisory councils, consumers and family members of consumers, mental health advocates, and other stakeholders. This coalition shall be advisory to the county mental health department. Coalition participants may include, but are not limited to, area agencies on aging, adult day and adult day health care programs, senior centers, public and private sector health programs, mental health, aging, social service, legal service, and public guardian programs, conservators, drug and alcohol programs, senior ombudsmen, residential care facility operators, family caregivers, family caregiver service providers, and other stakeholders.

5689.5. (a) Each grantee shall identify collaborative efforts it will undertake to link the Older Adult Mental Health System of Care with other related planning and implementation efforts occurring within the county, including, but not limited to, Long Term Care Integration Pilot Project activities pursuant to Article 4.3 (commencing with Section 14139.05) of Chapter 7 of Part 3 of Division 9.

(b) Each grantee shall define its project goals and establish client and system outcome measurements in collaboration with the department.

5689.6. The department, in collaboration with the California Mental Health Planning Council and the grantees, shall identify a set of common data elements that will be used to collect, analyze, and measure performance among grantees.

5689.7. (a) To the extent funds are available, evaluation shall be conducted both by the participating county evaluation staff of each participating county and by an independent evaluator contracted for by the department.

(b) Evaluation at both the local and state levels shall assess the extent to which:

(1) The county system of care is serving the targeting population.

(2) Timely performance data related to client outcomes and cost avoidance is collected, analyzed, and reported.

(3) System of care components are implemented as intended.

(4) Information is collected that documents needs for future planning.

5689.8. The department shall provide periodic progress reports and recommendations on the status of the Demonstration Project provided for in this article to the Long Term Care Coordination Council pursuant to Section 12803.2 of the Government Code.

5689.9. The department shall provide periodic progress reports on the status of the demonstration projects to all Demonstration Project participants and mental health directors to increase statewide awareness about mental health service development for older adults. The department may provide copies of these reports to other individuals or entities.

SEC. 59. Part 3.5 (commencing with Section 5830) is added to Division 5 of the Welfare and Institutions Code, to read:

PART 3.5. MENTAL HEALTH RESPITE CARE PILOT PROJECTS

CHAPTER 1. LEGISLATIVE DECLARATIONS AND DEFINITIONS

5830. The Legislature finds and declares all of the following:

(a) Family members are a primary source of care and support for children and adults with mental illness.

(b) As defined by the United States Surgeon General in a recent report on mental health, respite care is a concrete support service providing temporary relief to family members caring for individuals with mental illness.

(c) Respite care provided to families caring for a seriously emotionally disturbed child or seriously mentally ill adult is critical to assist them in keeping their family member in the home and maintaining the stability of the family.

(d) Respite care relieves the primary caregivers of providing constant care for a person with mental illness, and relieves chronic emotional stress that puts caregivers at risk of emotional and physical exhaustion, burnout, and related health disorders.

(e) When respite care is available, family members prefer in-home mental health care, rather than more costly out-of-home care.

5831. For purposes of this part, ''department'' means the State Department of Mental Health.

CHAPTER 2. PILOT PROJECTS

5832. (a) Contingent upon appropriation in the annual Budget Act, the department may establish and administer pilot projects providing respite for caregivers of seriously emotionally disturbed children and seriously mentally ill adults who reside in a caregiver's home.

(b) A pilot project may be operated by the county mental health department which may utilize county personnel and may contract with organizations with expertise in serving persons with mental illness.

(c) A county electing to participate in a pilot project shall submit proposals for the operation of a project to the department that shall include, but shall not be limited to, plans for the implementation of respite care services and descriptions of how the respite project will be coordinated with children or adult systems of care to the extent those systems of care are operating in the county.

(d) Approval to operate a pilot project shall be made by the department.

5833. (a) Parents or other family members who provide care in their home for a seriously emotionally disturbed child or a seriously mentally ill adult family member shall be eligible for respite care provided by a pilot county when, as determined by the county, both of the following conditions are met:

(1) The caregiver is under significant stress as a result of the responsibility of providing care.

(2) Continued caretaking without respite may result in out-of-home placement or a breakdown in family stability.

(b) A county operating a pilot project shall consult with stakeholder organizations in determining priorities for services and approval of respite care hours. Stakeholder organizations include, but are not limited to, families caring for family members with mental illness, persons with mental illness, advocates for persons with mental illness, mental health treatment providers, and multicultural organizations.

5834. (a) The amount and type of respite care provided to an eligible individual caretaker shall be determined by the county mental health department, in consultation with the caretaker requesting the respite care. In the case of a caretaker of an adult with mental illness, both the adult and the caretaker shall be consulted and respite care shall not be provided if the adult objects.

(b) Approved respite care may be provided on an hourly or daily basis, up to a maximum of seven days a month, except in the case of an exceptional circumstance or emergency as determined by the county. The county shall establish an annual maximum expenditure per case that shall not be exceeded except in the case of an exceptional circumstance or emergency as determined by the county.

5835. The caregiver shall be actively involved in the selection of the respite care provider. To the extent possible, the caregiver shall have flexibility in the timing of the use of the respite care hours that have been allocated. Respite care may be provided in the home of the caregiver or out-of-home locations including, but not limited to, another caregiver's home or other sites allowed by the county respite program and appropriate for the individual with mental illness. To the extent appropriate care is available, out-of-home respite care shall be provided within a reasonable proximity of the family's home.

5836. Entities operating pilot projects under this part shall do both of the following:

(a) Make reasonable efforts to recruit respite providers with skills in working with families from diverse ethnic and cultural groups and who are linguistically diverse.

(b) Conduct outreach to families from diverse ethnic and cultural groups to inform them of the availability of respite to prevent out-of-home placement or maintain family stability in times of significant caretaker stress.

5837. At county option, foster family home providers caring for a seriously emotionally disturbed child may be eligible for respite care under a pilot project if, as determined by the county mental health and county welfare departments, funding for the respite care is not available through the county foster care program and, without the respite care, the child's placement in the foster home is jeopardized. If the caregiver receiving respite care is a foster parent, the county and foster parent shall follow requirements of the foster care program in the selection of the respite care provider.

CHAPTER 3. EVALUATIONS

5838. The department may conduct an evaluation of the pilot projects, or contract for an evaluation, and shall submit a report to the Legislature by March 30, 2002. Up to one hundred thousand dollars ($100,000) may be used for this purpose. The report shall contain, at a minimum, all of the following:

(a) The total number of families receiving respite care.

(b) The amount of respite care provided to each family.

(c) A description of the results of the pilot projects, which may include, but shall not be limited to, an estimate of cost-savings and benefits to the caretaking families, individuals with mental illness, county mental health department programs, and other county programs as a result of the provision of respite care.

CHAPTER 4. REPEAL DATE

5839. This part 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. 60. Section 14005.28 is added to the Welfare and Institutions Code, to read:

14005.28. (a) To the extent federal financial participation is available pursuant to an approved state plan amendment, the department shall exercise its option under Section 1902(a)(10)(A)(XV) of the federal Social Security Act (Title 42 U.S.C. Section 1396a(a)(10)(A)(XV) to extend Medi-Cal benefits to independent foster care adolescents, as defined in Section 1905(v)(1) of the federal Social Security Act (Title 42 U.S.C. Section 1396d(v)(1).

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and if the state plan amendment described in subdivision (a) is approved by the federal Health Care Financing Administration, the department may implement subdivision (a) without taking any regulatory action and by means of all-county letters or similar instructions. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The department shall implement subdivision (a) on October 1, 2000, but only if, and to the extent that, the department has obtained all necessary federal approvals.

SEC. 61. Section 14005.30 of the Welfare and Institutions Code is amended to read:

14005.30. (a) (1) To the extent that federal financial participation is available, Medi-Cal benefits under this chapter shall be provided to individuals eligible for services under Section 1396u-1 of Title 42 of the United States Code, including any options under Section 1396u-1(b)(2)(C) made available to and exercised by the state.

(2) The department shall exercise its option under Section 1396u-1(b)(2)(C) of Title 42 of the United States Code to adopt less restrictive income and resource eligibility standards and methodologies to the extent necessary to allow all recipients of benefits under Chapter 2 (commencing with Section 11200) to be eligible for Medi-Cal under paragraph (1).

(b) To the extent that federal financial participation is available, the department shall exercise its option under Section 1396u-1(b)(2)(C) of Title 42 of the United States Code as necessary to expand eligibility for Medi-Cal under subdivision (a) by establishing the amount of countable resources individuals or families are allowed to retain at the same amount medically needy individuals and families are allowed to retain, except that a family of one shall be allowed to retain countable resources in the amount of three thousand dollars ($3,000).

(c) To the extent federal financial participation is available, the department shall, commencing March 1, 2000, adopt an income disregard for applicants equal to the difference between the income standard under the program adopted pursuant to Section 1931(b) of the federal Social Security Act (42 U.S.C. Sec. 1396u-1) and the amount equal to 100 percent of the federal poverty level applicable to the size of the family. A recipient shall be entitled to the same disregard, but only to the extent it is more beneficial than, and is substituted for, the earned income disregard available to recipients.

(d) For purposes of calculating income under this section during any calendar year, increases in social security benefit payments under Title

II of the federal Social Security Act (42 U.S.C. Sec. 401 and following) arising from cost-of-living adjustments shall be disregarded commencing in the month that these social security benefit payments are increased by the cost-of-living adjustment through the month before the month in which a change in the federal poverty level requires the department to modify the income disregard pursuant to subdivision (c) and in which new income limits for the program established by this section are adopted by the department.

(e) Subdivision (b) shall be applied retroactively to January 1, 1998.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement, without taking regulatory action, subdivisions (a) and (b) of this section by means of an all county letter or similar instruction. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Beginning six months after the effective date of this section, the department shall provide a status report to the Legislature on a semiannual basis until regulations have been adopted.

SEC. 62. Section 14005.40 is added to the Welfare and Institutions Code, to read:

14005.40. (a) To the extent federal financial participation is available, the department shall exercise its option under Section 1902(a)(10)(A)(ii)(X) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(X), to implement a program for aged and disabled persons as described in Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec. 1396a(m)(1)).

(b) To the extent federal financial participation is available, the blind shall be included within the definition of disabled for the purposes of the program established in this section.

(c) An individual shall satisfy the financial eligibility requirement of this program if both of the following conditions are met:

(1) Countable income, as determined in accordance with Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec. 1396a(m)), does not exceed an income standard equal to 100 percent of the applicable federal poverty level, plus two hundred thirty dollars ($230) for an individual or, in the case of a couple, three hundred ten dollars ($310), provided that the income standard so determined shall not be less than the SSI/SSP payment level for a disabled individual or, in the case of a couple, the SSI/SSP payment level for a disabled couple.

(2) Countable resources, as determined in accordance with Section 1902(m) of the federal Social Security Act (42 U.S.C. Sec. 1396a(m)), do not exceed the maximum levels established in that section.

(d) The financial eligibility requirements provided in subdivisions (c) may be adjusted upwards to reflect the cost of living in California, contingent upon appropriation in the annual Budget Act.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions, and without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) For purposes of calculating income under this section during any calendar year, increases in social security benefit payments under Title II of the federal Social Security Act (42 U.S.C. Sec. 401 et seq.) arising from cost-of-living adjustments shall be disregarded commencing in the month that these social security benefit payments are increased by the cost-of-living adjustment through the month before the month in which a change in the federal poverty level requires the department to modify the income standard described in subdivision (c).

(g) Notwithstanding any other provision of law, the program provided for pursuant to this section shall be implemented only if, and to the extent that, the department determines that federal financial participation is available under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(h) Subject to subdivision (g), this section shall be implemented commencing January 1, 2001.

SEC. 63. Section 14011.15 of the Welfare and Institutions Code is amended to read:

14011.15. (a) The department shall, not later than July 1, 2000, create and implement a simplified application package for children, families, and adults applying for Medi-Cal benefits. This simplified application package shall include a simplified supplemental resource form.

(b) In developing the application package described in subdivision (a), the department shall seek input from persons with expertise, including beneficiary representatives, counties, and beneficiaries.

(c) The department shall allow an applicant to apply for benefits by mailing in the simplified application package.

(d) The simplified application package shall utilize at a minimum, all of the following documentation standards:

(1) Proof of income shall be documented by the most recent paystub or a copy of the last year's federal income tax return.

(2) Self-declaration of pregnancy.

(3) A simplified supplemental resource form, if applicable.

(e) The department shall not require an applicant who submits a simplified application pursuant to this section to complete a face-to-face interview, except for good cause, a suspicion of fraud, or in order to complete the application process. A county shall conduct random monitoring of the mail-in application process to ensure appropriate enrollment. Every application package shall contain a notification of the applicant's right to complete a face-to-face interview.

(f) Commencing January 1, 2001, the department shall eliminate the requirement that recipients file quarterly status reports.

(g) The department shall implement this section only to the extent that its provisions are not in violation of the requirements of federal law, and only to the extent that federal financial participation is not jeopardized.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of an all county letter or similar instruction without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SECTION 63.5. Section 14021.4 of the Welfare and Institutions Code is amended to read:

14021.4. (a) The State Department of Mental Health shall prepare by January 15, 1991, amendments to California's plan for federal Medi-Cal grants for medical assistance programs, pursuant to Subchapter XIX (commencing with Section 1396) of Title 42 of the United States Code, to accomplish the following objectives:

(1) Expansion of the location and type of therapeutic services offered to the mentally ill under Medi-Cal by the category of ''other diagnostic, screening, preventative, and rehabilitative services'' which is available to states under the Social Security Act (42 U.S.C. Sec. 1396d(a)(13); 42 C.F.R. 440.130).

(2) Expansion of federal financial participation in the costs of community mental health services provided by local Short-Doyle community mental health programs or under contract to local Short-Doyle community mental health programs.

(3) Expansion of the location where reimbursable Short-Doyle Medi-Cal mental health services can be provided, including home, school, and community based sites.

(4) Expansion of federal financial participation for services which meet the rehabilitation needs of severely mentally ill consumers, including, but not limited to, medication management, functional rehabilitation assessments of clients, and rehabilitative services which include remedial services directed at restoration to the highest possible

functional level for persons with psychiatric disabilities and maximum reduction of symptoms of mental illness.

(5) Improvement of fiscal systems and accountability structures for Short-Doyle Medi-Cal and Short-Doyle costs and rates, with the goal of achieving federal fiscal requirements.

(b) This Short-Doyle Medi-Cal state plan revision shall be completed with review and comments by the California Conference of Local Mental Health Directors and other appropriate groups. The addition of the rehabilitative option shall be limited to Short-Doyle providers certified to provide Medi-Cal under this option.

(c) The State Department of Health Services shall review the state plan revision for medicaid services as recommended by the State Department of Mental Health. If the state plan amendment satisfies published federal requirements for these amendments and if the State Department of Health Services has approved and submitted to the Health Care Financing Administration a plan of correction for audit issues identified for the Short-Doyle Medi-Cal program, then the department shall promptly pursue federal adoption of the state plan revision. If the State Department of Health Services does not recommend adoption of the revision, it shall report on the financial and programmatic implications of the proposal and the reasons for the rejection to the Joint Legislative Budget Committee by July 1, 1991.

(d) The state and local funds required to match federal financial participation shall include, but not be limited to, Short-Doyle and county matching funds. Additional General Fund moneys for this purpose shall be subject to appropriation in the annual Budget Act.

(e) It is the intent of the Legislature that the rehabilitation option of the state medicaid plan be implemented to expand and provide flexibility to treatment services and to increase the federal participation without increasing the costs to the General Fund.

(f) It is the intent of the Legislature that addition of the rehabilitation option as a Short-Doyle Medi-Cal benefit shall become operative only after the Health Care Financing Administration has reviewed and approved the state plan revision submitted by the State Department of Health Services, a plan of correction approved by the department for audit issues identified for the Short-Doyle Medi-Cal program has been submitted, and the requirements of this section have been fully satisfied.

(g) If the Medi-Cal state plan revision required by this section is approved by the State Department of Health Services, and submitted for federal approval, the State Department of Mental Health shall review and revise the quality assurance standards and guidelines required by Article 5 (commencing with Section 4070) of Chapter 2 of Division 4 to meet the necessary standards to assure that quality services are delivered to the eligible population. This review shall include, but not

be limited to, appropriate use of mental health professionals, including psychiatrists, in the treatment and rehabilitation of clients under this model. The existing quality assurance standards and guidelines shall remain in effect until the adoption of the new quality assurance standards and guidelines.

(h) Consistent with services offered to persons who are mentally ill under the Medi-Cal program, as required by this section, it is the intent of the Legislature for the State Department of Mental Health, working collaboratively with the department, to include care and treatment of persons with mental disorders who are eligible for the Medi-Cal program in facilities with a bed capacity of 16 beds or less.

SEC. 64. Section 14053 of the Welfare and Institutions Code is amended to read:

14053. (a) The term ''health care services'' means the benefits set forth in Article 4 (commencing with Section 14131) of this chapter and in Section 14021. The term includes inpatient hospital services for any individual under 21 years of age in an institution for mental diseases. Any individual under 21 years of age receiving inpatient psychiatric hospital services immediately preceding the date on which he or she attains age 21 may continue to receive these services until he or she attains age 22. The term also includes early and periodic screening, diagnosis, and treatment for any individual under 21 years of age.

(b) The term ''health care services'' does not include, except to the extent permitted by federal law, any of the following:

(1) Care or services for any individual who is an inmate of an institution (except as a patient in a medical institution).

(2) Care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis.

(3) Care or services for any individual who is 21 years of age or over, except as provided in the first paragraph of this section, and has not attained 65 years of age and who is a patient in an institution for mental disease.

(4) Inpatient services provided to individuals 21 to 64 years of age, inclusive, in an institution for mental diseases operating under a consolidated license with a general acute care hospital pursuant to Section 1250.8 of the Health and Safety Code, unless federal financial participation is available for such inpatient services.

SEC. 65. Section 14053.1 of the Welfare and Institutions Code is amended to read:

14053.1. (a) Notwithstanding Section 14053, ancillary outpatient services, pursuant to Section 14132, for any eligible individual who is 21 years of age or over, and has not attained 65 years of age and who is a patient in an institution for mental diseases shall be covered regardless of the availability of federal financial participation.

(b) This section shall remain in effect only until July 1, 2001, and as of that date is repealed, unless a later enacted statute that is chaptered on or before July 1, 2001, deletes or extends that date.

SEC. 66. Section 14067.5 is added to the Welfare and Institutions Code, to read:

14067.5. The department shall encourage counties to outstation additional Medi-Cal eligibility workers in nontraditional sites, such as schools, private hospitals, clinics, mental health centers, sites providing services under California Supplemental Food Program for Women, Infants, and Children sites, and community-based organizations. The department shall permit counties to redirect a portion of existing funding for Medi-Cal eligibility administration for this purpose. The department shall require counties that redirect funds to provide an annual report on the cost of the additional outstationed workers and their effectiveness in increasing or facilitating Medi-Cal enrollment. Expenditures under this section shall be subject to the availability of federal financial participation, and shall not cause an increase in the allocation of funds for the administration of the Medi-Cal program.

SEC. 67. Section 14085.7 of the Welfare and Institutions Code is amended to read:

14085.7. (a) The Medi-Cal Medical Education Supplemental Payment Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to, and under the administrative control of, the department for the purposes specified in this section. Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) All public moneys transferred by public agencies to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal medicaid laws.

(2) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal medicaid laws.

(3) Any amounts appropriated to the fund by the Legislature.

(4) Any interest that accrues on amounts in the fund.

(b) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(c) The department shall have the discretion to accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department

shall obtain federal matching funds to the full extent permitted by law. The department shall accept only those funds that are certified by the transferring or donating entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable, and may return any funds transferred or donated in error.

(d) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures for purposes of payments under subdivision (e). Distributions from the fund shall be supplemental to any other amounts that hospitals receive under the contracting program.

(e) For purposes of recognizing medical education costs incurred for services rendered to Medi-Cal beneficiaries, payments from this fund shall be negotiated between the California Medical Assistance Commission and hospitals contracting under this article that meet the definition of university teaching hospitals or major (nonuniversity) teaching hospitals as set forth on page 51 and as listed on page 57 of the department's report dated May 1991, entitled ''Hospital Peer Grouping.'' Payments from the fund shall be used solely for the purposes identified in the contract between the hospital and the state.

(f) The state shall be held harmless from any federal disallowance resulting from this section. A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section with respect to that hospital. The state may recoup any federal disallowance from the hospital.

(g) This section 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 it becomes inoperative and is repealed.

SEC. 68. Section 14085.8 of the Welfare and Institutions Code is amended to read:

14085.8. (a) The Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund is hereby created in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to, and under the administrative control of, the department for the purposes specified in this section.

(c) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) All public moneys transferred by public agencies to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal medicaid laws.

(2) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal medicaid laws.

(3) Any amounts appropriated to the fund by the Legislature.

(4) Any interest that accrues on amounts in the fund.

(d) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(e) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal matching funds to the full extent permitted by law. The department shall accept only those funds that are certified by the transferring or donating entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable, and may return any funds transferred or donated in error.

(f) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures for purposes of payments under subdivision (g). Distributions from the fund shall be supplemental to any other amounts that hospitals receive under the contracting program.

(g) (1) For purposes of recognizing medical education costs incurred for services rendered to Medi-Cal beneficiaries, contracts for payments from the fund may, at the discretion of the California Medical Assistance Commission, be negotiated between the commission and hospitals contracting under this article that are defined as either of the following:

(A) A large teaching emphasis hospital, as set forth on page 51 and listed on page 57 of the department's report dated May 1991, entitled ''Hospital Peer Grouping,'' and meets the definition of eligible hospital as defined in paragraph (3) of subdivision (a) of Section 14105.98.

(B) A children's hospital pursuant to Section 10727 and meets the definition of eligible hospital as defined in paragraph (3) of subdivision (a) of Section 14105.98.

(2) Payments from the fund shall be used solely for the purposes identified in the contract between the hospital and the state.

(h) The state shall be held harmless from any federal disallowance resulting from this section. A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section with respect to that hospital. The state may recoup any federal disallowance from the hospital.

(i) This section 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 it becomes inoperative and is repealed.

SEC. 69. Section 14085.81 is added to the Welfare and Institutions Code, to read:

14085.81. Notwithstanding the requirement in subparagraph (A) of paragraph (1) of subdivision (3) of Section 14085.8 that a hospital must be listed on page 57 of the department's report dated May 1991, entitled ''Hospital Peer Grouping,'' any hospital whose license pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code was consolidated during the 1999 calendar year with a large teaching emphasis hospital that is listed on page 57 of the above described report shall be eligible to negotiate payments pursuant to paragraph (1) of subdivision (g) of Section 14085.8. All other requirements of Section 14085.8 shall continue to apply.

SEC. 70. Section 14105.17 is added to the Welfare and Institutions Code, to read:

14105.17. (a) Each hospital designated by the department as a critical access hospital, and certified as such by the Secretary of the United States Department of Health and Human Services under the federal Medicare rural hospital flexibility program, shall be eligible for supplemental payments for Medi-Cal covered outpatient services rendered to Medi-Cal eligible persons.

(b) Payments made pursuant to subdivision (a) shall be contingent upon receipt of federal financial participation, and shall be limited by the appropriation in the annual Budget Act for the nonfederal share of these payments. Supplemental payments shall be apportioned among critical access hospitals based upon their number of Medi-Cal outpatient visits.

(c) Nothing in this section shall be interpreted as meaning that a critical access hospital is not a general acute care hospital.

(d) 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 implementation of this section to those payments that are allowable expenses 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.

(e) The department may adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 1 of Title 2 of the Government Code) to implement this section. One initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. 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. If the department adopts emergency regulations pursuant to this section, the department shall seek prior input from representatives of the hospital industry, including the California Healthcare Association.

SEC. 71. Section 14105.31 of the Welfare and Institutions Code is amended to read:

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

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

(b) ''Best price'' means the negotiated price, or the manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers, retailers, hospitals, repackagers, providers, or governmental entities within the United States, that contracts with a manufacturer for a specified price for drugs, inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits, shall be based upon the

manufacturer's commonly used retail package sizes for the drug sold by wholesalers to retail pharmacies.

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

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

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

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

(g) ''Medicaid rebate'' means the rebate payment made by drug manufacturers pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8).

(h) ''State rebate'' means any negotiated rebate under the Drug Discount Program in addition to the medicaid rebate.

(i) ''Date of mailing'' means the date that is evidenced by the postmark date by the United States Postal Service or other common mail carrier on the envelope.

(j) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 72. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed upon price escalators, as defined in that section. The contracts shall provide for an equalization

payment amount, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the equalization payment amount, including supporting utilization data from the department's prescription drug paid claims tapes within 30 days of receipt of the Health Care Financing Administration's file of manufacturer rebate information. In lieu of paying the entire invoiced amount, a manufacturer may contest the invoiced amount pursuant to procedures established by the federal Health Care Financing Administration's Medicaid Drug Rebate Program Releases or regulations by mailing a notice, that shall set forth its grounds for contesting the invoiced amount, to the department within 38 days of the department's mailing of the state invoice and supporting utilization data. For purposes of state accounting practices only, the contested balance shall not be considered an accounts receivable amount until final resolution of the dispute pursuant to procedures established by the federal Health Care Financing Administration's Medicaid Drug Rebate Program Releases or regulations that results in a finding of an underpayment by the manufacturer. Manufacturers may request, and the department shall timely provide, at cost, Medi-Cal provider level drug utilization data, and other Medi-Cal utilization data necessary to resolve a contested department-invoiced rebate amount.

(2) The department shall provide for an annual audit of utilization data used to calculate the equalization amount to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) Utilization data used to determine an equalization payment amount shall exclude data from both of the following:

(A) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(B) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of

single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) (1) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(2) The department shall make every attempt to complete the initial contracting process for each major therapeutic category by January 1, 2001.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 30 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(3) In order to expedite implementation of paragraph (1), the requirements of Sections 14105.37, 14105.38, subdivisions (a), (c), (e), and (f) of Sections 14105.39, 14105.4, and 14105.405 are waived for the purposes of this section until January 1, 1994.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews.

(k) (1) Manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments.

(2) For state rebate payments, manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(3) Following final resolution of any dispute pursuant to procedures established by the federal Health Care Financing Administration's Medicaid Drug Rebate Program Releases or regulations regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to subdivisions (m) and (n), and any overpayment, together with interest at the rate calculated pursuant to subdivisions (m) and (n), shall be credited by the department against future rebates due.

(*l*) Interest pursuant to subdivision (k) shall begin accruing 38 calendar days from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(m) Except as specified in subdivision (n), interest rates and calculations pursuant to subdivision (k) for medicaid rebates and state rebates shall be identical and shall be determined by the federal Health Care Financing Administration's Medicaid Drug Rebate Program Releases or regulations.

(n) If the date of mailing of a state rebate payment is 69 days or more from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer, the interest rate and calculations pursuant to subdivision (k) shall be as specified in subdivision (m), however the

interest rate shall be increased by 10 percentage points. This subdivision shall apply to payments for amounts invoiced for any quarters that begin on or after the effective date of the act that added this subdivision.

(o) If the rebate payment is not received, the department shall send overdue notices to the manufacturer at 38, 68, and 98 days after the date of mailing of the invoice, and supporting utilization data. If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, the manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. For all other manufacturers, if the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, all of the drug products of those manufacturers shall be made available only through prior authorization effective 270 days after the date of mailing of the invoice, including utilization data sent to manufacturers.

(p) If the manufacturer provides payment or evidence of payment to the department at least 40 days prior to the proposed date the drug is to be made available only through prior authorization pursuant to subdivision (o), the department shall terminate its actions to place the manufacturers' drug products on prior authorization.

(q) The department shall direct the state's fiscal intermediary to remove prior authorization requirements imposed pursuant to subdivision (o) and notify providers within 60 days after payment by the manufacturer of the rebate, including interest. If a contract was in place at the time the manufacturers' drugs were placed on prior authorization, removal of prior authorization requirements shall be contingent upon good faith negotiations and a signed contract with the department.

(r) A beneficiary may obtain drugs placed on prior authorization pursuant to subdivision (o) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the drug when its manufacturer is placed on prior authorization status. Additionally, the department shall have received a claim for the drug with a date of service that is within 100 days prior to the date the manufacturer was placed on prior authorization.

(s) A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the drug in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same drug.

(t) Drugs covered pursuant to Sections 14105.43 and 14133.2 shall not be subject to prior authorization pursuant to subdivision (o), and any other drug may be exempted from prior authorization by the department if the director determines that an essential need exists for that drug, and

there are no other drugs currently available without prior authorization that meet that need.

(u) It is the intent of the Legislature in enacting subdivisions (k) to (t), inclusive, that the department and manufacturers shall cooperate and make every effort to resolve rebate payment disputes within 90 days of notification by the manufacturer to the department of a dispute in the calculation of rebate payments.

(v) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 73. Section 14105.35 of the Welfare and Institutions Code is amended to read:

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

The department shall, in writing, invite any manufacturer with single-source drug products on the formulary as of July 1, 1990, to enter into negotiations relative to the retention of its drug or drugs. As to the issue of cost, the department shall accept the manufacturer's best price as sufficient for purposes of entering into a contract to retain the drug or drugs on the list of contract drugs.

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

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

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

(3) The director may delete a drug from the list of contract drugs if the director determines that the drug presents problems of safety or

misuse. The director's decision as to safety shall be based upon published medical literature, and the director's decision as to misuse shall be based on published medical literature and claims data supplied by the fiscal intermediary.

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

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

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

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

(d) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 74. Section 14105.37 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 75. Section 14105.38 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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

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

(d) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 76. Section 14105.39 of the Welfare and Institutions Code is amended to read:

14105.39. (a) (1) A manufacturer of a new single-source drug may request inclusion of its drug on the list of contract drugs pursuant to Section 14105.33 provided all of the following conditions are met:

(A) The request is made within 12 months of approval for marketing by the federal Food and Drug Administration.

(B) The manufacturer agrees to negotiate a contract with the department to provide the drug at the manufacturer's best price.

(C) (i) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(ii) Notwithstanding clause (i), either of the following may be submitted by the manufacturer in lieu of the Summary Basis of Approval prepared by the federal Food and Drug Administration for that drug:

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

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

(D) The department had concluded contracting for the therapeutic category in which the drug is included prior to approval of the drug by the federal Food and Drug Administration.

(2) Within 90 days from receipt of the request, the department shall evaluate the request using the criteria identified in subdivision (d), and shall submit the drug to the Medi-Cal Contract Drug Advisory Committee.

(b) Any petition for the addition to or deletion of a drug to the Medi-Cal drug formulary submitted prior to July 31, 1990, shall be deemed to be denied. A manufacturer who has submitted a petition deemed denied may request inclusion of that drug on the list of contract drugs provided all of the following conditions are met:

(1) The manufacturer agrees to negotiate for a contract with the department to provide the drug at the manufacturer's best price.

(2) The manufacturer provides the department with necessary information, as specified by the department, in the request.

(3) The manufacturer submits the request to the department prior to October 1, 1990.

(c) Any new drug designated as having an important therapeutic gain and approved for marketing by the federal Food and Drug Administration on or after July 31, 1990, shall immediately be included on the list of contract drugs for a period of three years provided that all of the following conditions are met:

(1) The manufacturer offers the department its best price.

(2) The drug is typically administered in an outpatient setting.

(3) The drug is prescribed only for the indications and usage specified in the federal Food and Drug Administration approved labeling.

(4) The drug is determined by the director to be safe, relative to other drugs in the same therapeutic category on the list of contract drugs.

(d) (1) To ensure that the health needs of Medi-Cal beneficiaries are met consistent with the intent of this chapter, the department shall, when evaluating a decision to execute a contract, and when evaluating drugs for retention on, addition to, or deletion from, the list of contract drugs, use all of the following criteria:

(A) The safety of the drug.

(B) The effectiveness of the drug.

(C) The essential need for the drug.

(D) The potential for misuse of the drug.

(E) The cost of the drug.

(2) The deficiency of a drug when measured by one of these criteria may be sufficient to support a decision that the drug should not be added or retained, or should be deleted from the list. However, the superiority of a drug under one criterion may be sufficient to warrant the addition or retention of the drug, notwithstanding a deficiency in another criterion.

(e) (1) A manufacturer of single-source drugs denied a contract pursuant to this section or Section 14105.33 or 14105.37, may file an appeal of that decision with the director within 30 calendar days of the department's written decision.

(2) Within 30 calendar days of the manufacturer's appeal, the director shall request a recommendation regarding the appeal from the Medi-Cal Contract Drug Advisory Committee. The committee shall provide its recommendation in writing, within 30 calendar days of the director's request.

(3) The director shall issue a final decision on the appeal within 30 calendar days of the recommendation.

(f) Deletions made to the list of contract drugs, including those made pursuant to Section 14105.37, shall become effective no sooner than 30 days after publication of the changes in provider bulletins.

(g) Changes made to the list of contract drugs under this or any other section are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(h) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 77. Section 14105.4 of the Welfare and Institutions Code, as amended by Section 51 of Chapter 146 of the Statutes of 1999, is amended to read:

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

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

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

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

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

(1) Physicians.

(2) Pharmacists.

(3) Schools of pharmacy or pharmacologists.

(4) Medi-Cal beneficiaries.

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

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

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

(f) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 78. Section 14105.4 of the Welfare and Institutions Code, as amended by Section 52 of Chapter 146 of the Statutes of 1999, is amended to read:

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

(b) The department shall make available 45 days prior to the public hearing the department's estimate of any anticipated costs or savings to

the state from adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary.

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

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

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

(2) Notwithstanding paragraph (1), either of the following may be submitted by the manufacturer in lieu of the Summary Basis of Approval prepared by the federal Food and Drug Administration for that drug:

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

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

(f) Departmental requests for information from persons filing drug petitions to which this section applies shall be specific and unambiguous and shall be made solely for the purpose of addressing the criteria utilized in accordance with subdivision (e).

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

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

(i) The department shall accept a petition for a drug that has been rejected by the director upon the submission of another complete petition containing substantial new information that addresses the

reason or reasons for rejection stated by the director pursuant to subdivision (h). Any petition accepted pursuant to this subdivision shall be processed in accordance with subdivision (c), or Section 14105.9, whichever is applicable.

(j) This section shall become operative on January 1, 2003.

SEC. 79. Section 14105.405 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

(e) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 80. Section 14105.41 of the Welfare and Institutions Code, as amended by Section 54 of Chapter 146 of the Statutes of 1999, is amended to read:

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

(b) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 81. Section 14105.41 of the Welfare and Institutions Code, as amended by Section 55 of Chapter 146 of the Statutes of 1999, is amended to read:

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

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

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

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

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

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

(C) The decision of the department.

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

(b) Any additional information provided to the department during the posting of revisions to the proposed regulation shall be responded to by the department directly and in writing to the originator. That response shall notify the originator whether the additional information has resulted in a changed decision.

(c) For the purpose of review by the court, if any, and review and approval by the Office of Administrative Law of changes to the Medi-Cal drug formulary adopted by the department, each drug added to, or deleted from, the formulary shall be considered to be a separate

regulation and shall be severable from all other additions or deletions of drugs contained in the rulemaking file.

(d) This section shall be applicable to any Medi-Cal drug formulary regulation package filed with the Office of Administrative Law on or after January 1, 2003.

(e) This section shall become operative on January 1, 2003.

SEC. 82. Section 14105.42 of the Welfare and Institutions Code, as amended by Section 56 of Chapter 146 of the Statutes of 1999, is amended to read:

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

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

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 83. Section 14105.42 of the Welfare and Institutions Code, as amended by Section 13 of Chapter 723 of the Statutes of 1992, is amended and renumbered to read:

14105.425. The provisions of Sections 14105.4 to 14105.41, inclusive, and Section 14105.65 shall not preclude the department from taking emergency regulatory action as it deems appropriate.

This section shall become operative on January 1, 1997.

SEC. 84. Section 14105.91 of the Welfare and Institutions Code is amended to read:

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

This section shall become operative on January 1, 2003.

SEC. 85. Section 14105.915 of the Welfare and Institutions Code is amended to read:

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

This section shall become operative on January 1, 2003.

SEC. 86. Section 14105.916 of the Welfare and Institutions Code is amended to read:

14105.916. Notwithstanding any other provision of law, on and after January 1, 2003, drugs on the Medi-Cal list of contract drugs shall become the Medi-Cal drug formulary.

SEC. 87. Section 14105.981 of the Welfare and Institutions Code is amended to read:

14105.981. In addition to the requirements of subdivision (t) of Section 14105.98:

(a) Except as provided in paragraph (2), the department shall take all appropriate steps permitted by law and the Medi-Cal state plan to ensure the following for all years of the payment adjustment program.

(1) That transitional inpatient days are included in the payment adjustment program in the same fashion as all other Medi-Cal days of acute inpatient hospital service.

(2) That, to the same extent as any other Medi-Cal days of acute inpatient hospital service, transitional inpatient days are included as payable days under the payment adjustment program and in the total annualized Medi-Cal inpatient paid days.

(b) In no event shall paragraph (1) be implemented in a fashion that is inconsistent with federal medicaid law or the Medi-Cal state plan or any relevant amendments thereto.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 88. Section 14110.6 of the Welfare and Institutions Code is amended to read:

14110.6. (a) The director shall adopt regulations, establishing payment rates for nursing facilities, intermediate care facilities/developmentally disabled, and intermediate care facilities/developmentally disabled-habilitative as defined in Section 1250 of the Health and Safety Code, which are sufficient to provide an increase of one dollar and ninety-six cents ($1.96) per patient day for patients receiving skilled nursing services, one dollar and fifty-eight cents ($1.58) per patient day, for patients receiving intermediate care services, two dollars and twenty-nine cents ($2.29) per patient day for intermediate care facilities/developmentally disabled patients, to be used for wage increases and benefits to all employees, except a licensed nursing home administrator or an administrator-in-training and two dollars and thirty-five cents ($2.35) per patient day for intermediate care facilities/developmentally disabled-habilitative patients in facilities with 4 to 6 beds, and one dollar and ninety-eight cents ($1.98) per patient day for intermediate care facilities/developmentally disabled-habilitative patients in facilities with 7 to 15 beds, to be used for wage increases and benefits to all direct care staff. However, if either (1) the entry level wages of the lowest paid nonadministrative employee

of a nursing facility, intermediate care facility/developmentally disabled, or intermediate care facility/developmentally disabled-habilitative, exceeds six dollars ($6) per hour as of August 1, 1984; or (2) upon the election of a county board of supervisors, for any nursing facility, intermediate care facility/developmentally disabled, or intermediate care facility/developmentally disabled-habilitative, which is operated by a county, the funds received pursuant to regulations adopted pursuant to this section shall be used solely for labor costs directly related to providing patient care services in order to meet patients' needs including the uses of funds provided for under subdivision (d) of Section 14110.7. Any increase in wages and benefits required by this section shall be in addition to any future mandatory increases required by federal or state law. The rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit increase required by this section attributable to Medi-Cal patients. The portion of those additional costs shall be the same as the ratio of Medi-Cal patients to the total number of patients in the facility. These regulations shall be adopted, effective March 15, 1985, for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, and by October 1, 1985, for intermediate care facilities/developmentally disabled-habilitative. Commencing October 1, 1990, these requirements shall become operative for nursing facilities.

(b) Each nursing facility or intermediate care facility/developmentally disabled, or, for the period prior to October 1, 1990, each skilled nursing facility or intermediate care facility, shall certify all of the following:

(1) All employees, except a licensed nursing home administrator or an administrator-in-training of a licensed nursing home, shall receive at least the prevailing federal or state minimum wage rate plus the average hourly wage increase established pursuant to Chapter 19 of the Statutes of 1978, and this section.

(2) All employees of the facility, except a licensed administrator or administrator-in-training, shall be paid not less than the sum of the employee's actual rate of pay as of the effective date of the Medi-Cal rate increase provided for under Section 14110.7 plus the amount of the adjustment specified pursuant to this section, or not less than the applicable agreed to rate plus the amount of the adjustment, whichever is greater.

(3) Any wage increase required pursuant to Section 1268.5 of the Health and Safety Code, is in addition to any minimum wages provided in this section.

(4) For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal patient

days recorded by the facility in the month of December 1983 shall be multiplied by the amount per patient day specified in subdivision (a) plus the amount provided by Chapter 19 of the Statutes of 1978. The new wage levels shall be determined by dividing the Medi-Cal funds received by the nonovertime hours worked by covered employees in December 1983, plus any adjustments due to additional employees as specified in Section 14110.7 and adjustments to reflect employee benefit allowances.

(c) Each intermediate care facility/developmentally disabled-habilitative shall certify all of the following:

(1) All direct care staff, as defined in the department's regulations developed pursuant to Section 1267.7 of the Health and Safety Code, shall receive at least the prevailing federal or state minimum wage plus the average hourly wage increase pursuant to this section.

(2) For purposes of determining the amount of Medi-Cal funds to be distributed for intermediate care facilities/developmentally disabled-habilitative for employee wages and benefits, the total Medi-Cal patient days in the month of December 1984, shall be multiplied by the amount per patient day specified in subdivision (a). The new wage level shall be determined by dividing the Medi-Cal funds received by the nonovertime hours by covered direct care employees in December 1984, and adjustments to reflect employee benefit allowances.

(d) The director shall order the inspection of relevant payroll and personnel records of facilities which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (a) to ensure that the wage and benefit increases provided for have been implemented.

(e) The department shall, commencing August 1, 1999, increase the Medi-Cal reimbursement for level A and level B nursing facilities solely to provide funds for salaries, wages, and benefits increases for direct care staff. For the purposes of this subdivision, ''direct care staff'' means registered nurses, licensed vocational nurses, and nurse assistants, who provide direct patient care. The amount of funds to be provided to each level A and level B facility pursuant to this subdivision shall be calculated on a per patient day basis, and shall be added to the per diem rate paid to each facility. The amount of funds provided under this subdivision to each nursing facility peer group shall be published in a Medi-Cal provider bulletin. Level A and level B facilities shall compensate their registered nurses, licensed vocational nurses, and nurse assistants that portion of the rate increase provided under this subdivision in the form of salaries, wages, and benefits increases for their direct care staff. The total amount to be passed through by each

facility shall be the per diem amount received by the facility pursuant to this subdivision times the facility's number of Medi-Cal patient days.

(f) Subject to an appropriation for this purpose in the Budget Act of 2000, in addition to the increase specified in subdivision (e), the department shall, commencing August 1, 2000, increase the Medi-Cal reimbursement rate for nursing facilities, intermediate care facilities/developmentally disabled, intermediate care facilities/developmentally disabled-habilitative, and intermediate care facilities/developmentally disabled-nursing solely to provide funds for salaries, wages, and benefits increases for direct care staff and other staff, subject to all of the following:

(1) For purposes of this subdivision ''direct care staff in nursing facilities'' means the following:

(A) Registered nurses and licensed vocational nurses, when employed in the performance of direct care to patients.

(B) Employees in the nurse assistant classification employed in the performance of direct care to patients at a freestanding or distinct-part nursing facility, including job titles such as nursing aide, aide, practical nurse, orderly, nurse assistant, and certified nurse assistant.

(C) Employees performing respiratory therapy services for Medi-Cal pediatric subacute patients, including job titles such as respiratory care practitioner, respiratory technician, respiratory therapist inhalation technician, and inhalation therapist.

(2) For purposes of this subdivision, ''direct care staff in intermediate care facilities/developmentally disabled, intermediate care facilities/developmentally disabled-habilitative, and intermediate care facilities/developmentally disabled-nursing'' means all of the following:

(A) Qualified mental retardation professionals employed in the performance of direct care to patients.

(B) Lead personnel employed in the performance of direct care to patients. Lead personnel described in this subparagraph shall not be considered to be supervisory.

(C) Employees in the nurse assistant classification employed in the performance of direct care to patients at a freestanding or distinct-part nursing facility, including job titles such as nurse assistants and aides.

(D) Other nonsupervisory staff providing direct patient care.

(E) Registered nurses and licensed vocational nurses, if employed in the performance of direct care to patients.

(3) For purposes of paragraphs (1) and (2), ''direct care staff'' shall not include registered nurses or other personnel performing supervisory functions or housekeeping or maintenance staff in any facility.

(4) For purposes of this subdivision, ''other staff'' means all of the following personnel:

(A) Linen and laundry staff.
(B) Plant operations and maintenance staff.
(C) Housekeeping staff.
(D) Dietary staff.

(5) (A) The amount of funds to be provided to each facility pursuant to this subdivision shall be added to the per diem rate paid to each facility on a per patient day basis.

(B) The per diem amount of funds provided to each facility type and peer group pursuant to this subdivision shall be published in a Medi-Cal provider bulletin. Nursing facilities that are part of an acute care hospital and subacute facilities shall be notified of their per diem amount provided pursuant to this subdivision in a separate letter to each facility.

(6) (A) Facilities receiving funds pursuant to this subdivision shall compensate staff that portion of the rate increase provided pursuant to this subdivision in the form of salaries, wages, and benefits increases. The total amount to be passed through pursuant to this subdivision by each facility shall be the per diem amount received by the facility pursuant to this subdivision multiplied by the facility's number of Medi-Cal patient days.

(B) Each direct care and other staff employee classification shall receive a portion of the rate increase provided pursuant to this subdivision in the form of an increase in salary, wage, and benefits. The facility may allocate the amounts that each classification may receive, but the amount shall not be nominal or zero.

(C) Funds passed through pursuant to this subdivision for purposes of salary, wages, or benefits increases may not be used for any salary, wage, or benefit increase that were committed to by a facility prior to August 1, 2000, nor may these funds be used for any salaries, wages, or benefits that the facility would have paid in the absence of this subdivision.

(D) Funds passed through pursuant to this subdivision for purposes of salary, wages, or benefits increases may not be distributed to direct care and other staff in the form of bonuses. These funds may, however, be used to provide retroactive pay increases if those wage increases also increase the employee's base salary rate.

(7) The base from which direct care and other staff salaries, wages, and benefits shall be increased shall be the aggregate per hour salaries, wages, and benefits for the period of August 1, 1999, to July 31, 2000, inclusive.

(8) The department may inspect relevant payroll and personnel records of facilities receiving funds pursuant to this subdivision in order to ensure that the salary, wage, and benefit increases provided for pursuant to this subdivision have been implemented.

(9) Each facility receiving funds from the department, or from a county organized health system described in paragraph (10) pursuant to this subdivision shall certify on the form provided by the department that these funds were expended for increased direct care and other staff salary, wages, and benefits increases in accordance with this subdivision. The facility shall return the form to the department by October 1, 2001. The facility shall submit a copy of the completed form to all collective bargaining agents with whom the facility has collective bargaining agreements for direct care and other staff at the facility.

(10) County organized health systems contracting with the department pursuant to Article 2.8 (commencing with Section 14087.5) and Article 7 (commencing with Section 14490) of Chapter 8 shall certify to the department, in a manner to be specified by the department, that the August 1, 2000, wage pass-through funds, received pursuant to this section in the form of capitated rate payments, were passed through to the facilities described in this subdivision.

(g) Any facility which is paid under the rate provided for in subdivision (a), (e), or (f) which the director finds has not made the wage and benefit increases provided for shall be liable for the amount of funds paid to the facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits, plus a penalty equal to 10 percent of the funds not so distributed. The facility shall be subject to Section 14107.

SEC. 89. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. (a) Bills for service under this chapter shall be submitted not more than six months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself or herself to the provider as a Medi-Cal beneficiary within four months after the month in which the service was rendered, the provider shall be entitled to submit his or her statement at any time within 60 days after that date certified by the provider as the date the patient was first identified as a Medi-Cal beneficiary. However, the date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall

be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

(b) The director may, where he or she finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

(c) (1) Reimbursement for an original claim, submitted for payment between six and 12 months after the month of service, that does not meet any of the exceptions allowing billing after six months as specified in subdivisions (a) and (b), or the exception specified in subdivision (f), shall be reduced as follows:

(A) The amount otherwise payable by Medi-Cal shall be reduced by 25 percent for claims submitted during the seventh through the ninth month after the month of service.

(B) The amount otherwise payable by Medi-Cal shall be reduced by 50 percent for claims submitted during the 10th through the 12th month after the month of service.

(2) The director may establish exceptions through regulations, for claims submitted beyond the one-year billing limitation, to the extent full federal participation is available.

(d) For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

(e) No further followup shall be required, after the provider receives acknowledgment of a claim inquiry from the fiscal intermediary, until the claim is paid or denied, except that this period shall not exceed one year from the date of acknowledgment. Within one year from the date of acknowledgment the next level of appeal shall be utilized by the provider.

(f) To the extent permitted by federal law, when a state of emergency has been declared by either the President of the United States or the Governor, the director, in order to ensure continued access to health care services, may remit payment for services without the submission of required documentation, to any provider in good standing under the Medi-Cal program who, due to destruction, loss, or inaccessibility of data as a result of the emergency situation, is unable to submit claims. Emergency payments may be made for a period of up to six months from the date of the emergency declaration. All requests for emergency payment shall include adequate justification for payment, as required by the director, and shall be paid based on the previous claims history of the requesting provider held by the department.

SEC. 90. Section 14132.05 is added to the Welfare and Institutions Code, to read:

14132.05. The department shall provide the fiscal and appropriate policy committees of the Legislature with a copy of their submittal to the federal Health Care Financing Administration pertaining to any evaluation completed regarding the Family PACT federal waiver required by subdivision (aa) of Section 14132.

SEC. 91. Section 14132.22 of the Welfare and Institutions Code is amended to read:

14132.22. (a) (1) Transitional inpatient care services, as described in this section and provided by a qualified health facility, is a covered benefit under this chapter, subject to utilization controls and subject to the availability of federal financial participation. These services shall be available to individuals needing short-term medically complex or intensive rehabilitative services, or both.

(2) The department shall seek any necessary approvals from the federal Health Care Financing Administration to ensure that transitional inpatient care services, when provided by a general acute care hospital, will be considered for purposes of determining whether a hospital is deemed to be a disproportionate share hospital pursuant to Section 1396r-4(b) of Title 42 of the United States Code or any successor statute.

(3) Transitional inpatient care services shall be available to Medi-Cal beneficiaries who do not meet the criteria for eligibility for the subacute program provided for pursuant to Section 14132.25, but who need more medically complex and intensive rehabilitative services than are generally available in a skilled nursing facility, and who are clinically stable and no longer need the level of diagnostic and ancillary services provided generally in an acute care facility.

(b) For purposes of this section, ''transitional inpatient care'' means the level of care needed by an individual who has suffered an illness, injury, or exacerbation of a disease, and whose medical condition has clinically stabilized so that daily physician services and the immediate availability of technically complex diagnostic and invasive procedures usually available only in the acute care hospital are not medically necessary, and when the physician assuming the responsibility of treatment management of the patient in transitional care has developed a definitive and time-limited course of treatment. The individual's care needs may be medical, rehabilitative, or both. However, the individual shall fall within one of the two following patient groups:

(1) ''Transitional medical patient,'' which means a medically stable patient with short-term transitional care needs, whose primary barrier to discharge to a residential setting is medical status rather than functional status. These patients may require simple rehabilitation therapy, but not a rehabilitation program appropriate for multiple interrelated areas of functional disability.

(2) ''Transitional rehabilitation patient,'' which means a medically stable patient with short-term transitional care needs, whose primary barrier to discharge to a residential setting is functional status, rather than medical status, and who has the capacity to benefit from a rehabilitation program as determined by a psychiatrist or physician otherwise skilled in rehabilitation medicine. These patients may have unresolved medical problems, but these problems must be sufficiently controlled to allow participation in the rehabilitation program.

(c) In implementing the transitional inpatient care program the department shall consider the differences between the two patient groups described in paragraphs (1) and (2) of subdivision (b) and shall assure that each group's specific health care needs are met.

(d) Transitional inpatient care services shall be made available only to qualifying Medi-Cal beneficiaries who are 18 years of age or older.

(e) Transitional inpatient care services shall not be available to patients in acute care hospitals defined as small and rural pursuant to Section 124840 of the Health and Safety Code.

(f) (1) Transitional inpatient care services may be provided by general acute care hospitals that are licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. General acute care hospitals may provide transitional inpatient care services in the acute care hospital, an acute rehabilitation center, or the distinct-part skilled nursing unit of the acute care hospital. Licensed skilled nursing facilities, as defined in subdivision (c) of Section 1250 of the Health and Safety Code that are certified to participate as a nursing facility in the Medicare and medicaid programs, pursuant to Titles XVIII and XIX of the federal Social Security Act, and licensed congregate living health facilities, as defined in Section 1265.7 of the Health and Safety Code, that are certified to participate as a nursing facility in the Medicare and medicaid programs pursuant to Titles XVIII and XIX of the federal Social Security Act, may also provide the services described in subdivision (b).

(2) Costs of providing transitional inpatient care services in nonsegregated parts of the distinct-part skilled nursing unit of the acute care hospital shall be determinable, in the absence of distinct and separate cost centers established for this purpose. Costs of providing transitional inpatient care services in nondistinct parts of the acute care hospital shall be determinable, in the absence of distinct and separate cost centers established for this purpose. A separate and distinct cost center shall be maintained or established for each unit in freestanding certified nursing facilities in which the services described in subdivision (b) are provided, in order to identify and segregate costs for transitional inpatient care patients from costs for other patients who may be served within the parent facility.

(g) In order to participate as a provider in the transitional inpatient care program, a facility shall meet all applicable standards necessary for participation in the Medi-Cal program and all of the following:

(1) If the health facility is a freestanding certified nursing facility, it shall be located in close proximity to a general acute care hospital with which the facility has a transfer agreement in order to support the capability to respond to medical emergencies.

(2) The health facility shall demonstrate, to the department, competency in providing high quality care to all patients for whom the facility provides care, experience in providing high quality care to the types of transitional inpatient care patients the facility proposes to serve, and the ability to provide transitional inpatient care to patients pursuant to this chapter.

(3) The health facility shall enter into a provider agreement with the department for the provision of transitional inpatient care. The provider agreement shall specify whether the facility is authorized to serve transitional medical patients or transitional rehabilitation patients or both, depending on the facility's demonstrated ability to meet standards specific to each patient group. Continuation of the provider agreement shall be contingent upon the facility's continued compliance with all the applicable requirements of this section and any other applicable laws or regulations.

(h) In determining a facility's qualifications for initial participation, an onsite review shall be conducted by the department. Subsequent review shall be conducted onsite as necessary, but not less frequently than annually. Initial and subsequent reviews shall be conducted by appropriate department personnel, which shall include a registered nurse and other health professionals where appropriate. The department shall develop written protocols for reviews.

(i) Transitional inpatient care services shall be available to patients receiving care in an acute care hospital. Under specified circumstances, as set forth in regulations, transitional inpatient care shall be available to patients transferring directly from a nursing facility level of care, a physician's office, a clinic, or from the emergency room of a general acute care hospital, provided they have received a comprehensive medical assessment conducted by a physician, and the physician determines, and documents in the medical record, that the patient has been clinically stable for the 24 hours preceding admission to the transitional inpatient care program.

(j) A health facility providing transitional inpatient care shall accept and retain only those patients for whom it can provide adequate, safe, therapeutic, and effective care, and as identified in its application for participation as a transitional inpatient care provider. The facility's determination to accept a patient into the transitional inpatient care unit

shall be based on its preadmission screening process conducted by appropriate facility personnel.

(k) The department shall establish a process for providing timely, concurrent authorization and coordination, as required, of all medically necessary services for transitional inpatient care.

(*l*) The department shall adopt regulations specifying admission criteria and an admission process appropriate to each of the transitional inpatient care patient groups specified in subdivision (b). Patient admission criteria to transitional inpatient care shall include, but not be limited to, the following:

(1) Prior to admission to transitional inpatient care, the patient shall be determined to have been clinically stable for the preceding 24 hours by the attending physician and the physician assuming the responsibility of treatment management of the patient in the transitional inpatient care program.

(2) The patient shall be admitted to transitional inpatient care on the order of the physician assuming the responsibility of the management of the patient, with an established diagnosis, and an explicit time-limited course of treatment of sufficient detail to allow the facility to initiate appropriate assessments and services. No patient shall be transferred from an acute care hospital to a transitional inpatient care program that is in a freestanding certified nursing facility if the patient's attending physician documents in the medical record that the transfer would cause physical or psychological harm to the patient.

(3) (A) Medical necessity for transitional care shall include, but not be limited to, one or more of the following:

(i) Intravenous therapy.

(ii) Rehabilitative services.

(iii) Wound care.

(iv) Respiratory therapy.

(v) Traction.

(B) The department shall develop regulations further defining the services to be provided pursuant to clauses (i) to (v), inclusive, and the circumstances under which these services shall be provided.

(m) Registered nurses shall be assigned to the transitional inpatient care unit at all times and in sufficient numbers to allow for the ongoing patient assessment, patient care, and supervision of licensed and unlicensed staff. Participating facilities shall assure that staffing is adequate in number and skill mix, at all times, to address reasonably anticipated admissions, discharges, transfers, patient emergencies, and temporary absences of staff from the transitional care unit including, but not limited to, absences to attend meetings or inservice training. All licensed and certified health care personnel shall hold valid, current licensure or certification.

(n) Continued medical assessments shall be of sufficient frequency as to adequately review, evaluate, and alter plans of care as needed in response to patients' medical progress.

(o) The department shall develop a rate of reimbursement for transitional inpatient care services for providers as specified in subdivision (f). Reimbursement rates shall be specified in regulation and in accordance with methodologies developed by the department and may include the following:

(1) All inclusive per diem rates.

(2) Individual patient specific rates according to the needs of the individual transitional care patient.

(3) Other rates subject to negotiation with the health facility.

(p) Reimbursement at transitional inpatient care rates shall only be implemented when funds are available for this purpose pursuant to the annual Budget Act. Funds expended to implement this section shall be used by providers to assure safe, therapeutic and effective patient care by staffing at levels which meet patients' needs, and to ensure that these providers have the needed resources and staff to provide quality care to transitional inpatient care patients.

(q) (1) The department shall reimburse physicians for all medically necessary care provided to transitional inpatient care patients and shall establish Medi-Cal physician reimbursement rates commensurate with those for visits to nontransitional acute care patients in acute care hospitals.

(2) It is the intent of this subdivision to cover physician costs not included in the per diem rate.

(r) No later than January 1, 2000, the department shall evaluate, and make recommendations regarding, the effectiveness and safety of the transitional inpatient care program. The evaluation shall be developed in consultation with representatives of providers, facility employees, and consumers. The department may contract for all or a portion of the evaluation. The evaluation shall be for the purpose of determining the impact of the transitional inpatient care program on patient care, including functional outcomes, if applicable, on whether the care costs less than other alternatives, and whether it results in the deterioration of patient health and safety as compared to other placements. The evaluation shall also be for the purpose of determining the effect on patients other than those receiving transitional inpatient care in participating facilities. The evaluation shall include:

(1) Data on patient mortality, patients served, length of stay, and subsequent placement or discharge.

(2) Data on readmission to acute care and emergency room transfers.

(3) Staffing standards in the facilities.

(4) Other outcome measures and indicia of patient health and safety otherwise required to be reported by federal or state law.

(s) The department shall develop regulations to amend Sections 51540 to 51556, inclusive, of Title 22 of the California Code of Regulations, to exclude the cost of transitional inpatient care services rendered in general acute care hospitals from the hospital's inpatient services reimbursement.

(t) The department may adopt emergency regulations as necessary to implement this section in accordance with the Administrative 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 public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days. If the department adopts emergency regulations to implement this section, the department shall obtain input from interested parties to address the unique needs of medically complex and intensive rehabilitative patients qualifying for transitional inpatient care. Notwithstanding the requirements of this section, the department shall, if it adopts emergency regulations to implement this section, address the following major subject areas:

(1) Patient selection and assessment criteria, including but not limited to, preadmission screening, patient assessments, physician services, and interdisciplinary teams.

(2) Facility participation criteria and agreements, including but not limited to, facility licensing and certification history, demonstration to the department of a preexisting history in providing care to medically complex or intensive rehabilitative patients, data reporting requirements, demonstration of continued ability to provide high quality of care to all patients, nurse staffing requirements, ancillary services, and staffing requirements.

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

SEC. 92. Section 14132.72 of the Welfare and Institutions Code is amended to read:

14132.72. (a) It is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider.

(b) For the purposes of this section, ''telemedicine'' and ''interactive'' are defined as those terms are defined in subdivision (a) of Section 2290.5 of the Business and Professions Code.

(c) (1) Commencing July 1, 1997, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine. The audio and visual telemedicine system used shall, at a minimum, have the capability of meeting the procedural definition of the Current Procedural Terminology Fourth Edition (CPT-4) codes which represent the service provided through telemedicine. The telecommunications equipment shall be of a level of quality to adequately complete all necessary components to document the level of service for the CPT-4 code billed. If a peripheral diagnostic scope is required to assess the patient, it shall provide adequate resolution or audio quality for decisionmaking.

(2) The department shall report to the appropriate committees of the Legislature, by January 1, 2000, on the application of telemedicine to provide home health care; emergency care; critical and intensive care, including neonatal care; psychiatric evaluation; psychotherapy; and medical management as potential Medi-Cal benefits.

(d) The Medi-Cal program shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

(e) The Medi-Cal program shall pursue private or federal funding to conduct an evaluation of the cost-effectiveness and quality of health care provided through telemedicine by those providers who are reimbursed for telemedicine services by the program.

SEC. 93. Section 14132.88 is added to the Welfare and Institutions Code, to read:

14132.88. Notwithstanding subdivision (h) of Section 14132 and to the extent funds are made available in the annual Budget Act for this purpose, the following are covered benefits under this chapter:

(a) Two basic dental cleanings per year.

(b) Two dental examinations per year.

SEC. 94. Section 14132.91 is added to the Welfare and Institutions Code, to read:

14132.91. (a) Subject to the availability of funding, the department shall conduct a dental outreach and education program for Medi-Cal beneficiaries. The program shall inform Medi-Cal beneficiaries of the availability of dental care and provide information regarding recommended frequencies for regular and preventive dental care, how to obtain Medi-Cal dental care, how to avoid inappropriate care or fraudulent providers, and how to obtain assistance in getting care or resolving problems with dental care.

(b) The program shall particularly target underserved populations and parents of young and adolescent children, and it shall include the following components:

(1) Incorporation of dental themes and information in ongoing outreach and advertising efforts, including those for Medi-Cal and the Healthy Families program.

(2) Education and outreach materials for inclusion in mailings to beneficiaries.

(3) Education and consumer protection materials for display and distribution at sites providing Medi-Cal dental care, clinics, and other health care facilities and sites.

(c) The department shall consult with dental professional groups and experts, community organizations, advertising and media experts, and other parties, as the department deems appropriate, in order to develop and structure the program in an effective and efficient manner.

SEC. 95. Section 14133.05 is added to the Welfare and Institutions Code, to read:

14133.05. (a) Notwithstanding any other provision of law, a request for a treatment authorization received by the department shall be reviewed for medical necessity only.

(b) Any claim for a service that is authorized pursuant to a treatment authorization request that qualifies for approval under the requirements established by the department in regulations shall be reduced in accordance with Section 14115.

(c) If a provider does not agree with the decision on a treatment authorization request, the provider may appeal the decision pursuant to procedures set forth in regulations adopted by the department.

(d) Providers shall comply with the administrative remedies available to them prior to seeking a judicial remedy with respect to a decision of the department on a treatment authorization request.

SEC. 96. Section 14163 of the Welfare and Institutions Code is amended to read:

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

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

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

(3) ''Disproportionate share hospital'' means a hospital providing acute inpatient services to Medi-Cal beneficiaries that meets the criteria

for disproportionate share status relating to acute inpatient services set forth in Section 14105.98.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Payments to hospitals pursuant to Section 14105.98.

(2) Transfers to the Health Care Deposit Fund as follows:

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

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

(C) In the amount of one hundred fifty-four million seven hundred fifty-seven thousand six hundred ninety dollars ($154,757,690) for the 1997–98 fiscal year.

(D) In the amount of one hundred fourteen million seven hundred fifty-seven thousand six hundred ninety dollars ($114,757,690) for the 1998–99 fiscal year.

(E) (i) In the amount of eighty-four million seven hundred fifty-seven thousand six hundred ninety dollars ($84,757,690) for the 1999–2000 fiscal year.

(ii) It is the intent of the Legislature that the economic benefit of any reduction in the amount transferred, or to be transferred, to the Health Care Deposit Fund pursuant to this subdivision for the 1999–2000 fiscal year, as compared to the amount so transferred for the 1998–99 fiscal year, be allocated equally between public and nonpublic

disproportionate share hospitals. To implement the reduction in clause (i) the department shall, by June 30, 2000, adjust the calculations in Section 14105.98 in order to allocate the funds in accordance with this clause.

(F) In the amount of twenty-nine million seven hundred fifty-seven thousand six hundred ninety dollars ($29,757,690) for the 2000–01 fiscal year and each fiscal year thereafter.

(G) The transfers from the fund shall be made in six equal monthly installments to the Medi-Cal local assistance appropriation item (Item 4260-101-001 of the annual Budget Act) in support of Medi-Cal expenditures. The first installment shall accrue in October of each transfer year, and all other installments shall accrue monthly thereafter from November through March.

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

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

The transfer amounts shall be determined as follows:

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

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

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

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

(g) For the 1991–92 transfer year, the department shall notify each transferor entity in writing of its applicable transfer amount or amounts.

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

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

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

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

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

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

(E) For the 1993–94 transfer year and subsequent transfer years, the divisor to be used for purposes of the calculation referred to in paragraph (4) of subdivision (f) shall be determined by the department. The divisor shall be calculated to ensure that the appropriate amount of transfers from transferor entities are received into the fund to satisfy the requirements of Section 14105.98, exclusive of the amounts described in paragraph (2) of this subdivision, and to satisfy the requirements of paragraph (2) of subdivision (d), for the particular transfer year. For the 1993–94 transfer year, the divisor shall be 1.742.

(F) The following provisions shall apply for certain transfer amounts relating to nonsupplemental payments under Section 14105.98:

(i) For the 1998–99 transfer year, transfer amounts shall be determined as though the payment adjustment amounts arising pursuant to subdivision (ag) of Section 14105.98 were increased by the amounts paid or payable pursuant to subdivision (af) of Section 14105.98.

(ii) Any transfer amounts paid by a transferor entity pursuant to subparagraph (C) of paragraph (2) shall serve as credit for the particular transferor entity against an equal amount of its transfer obligation for the 1998–99 transfer year.

(iii) For the 1999–2000 transfer year, transfer amounts shall be determined as though the amount to be transferred to the Health Care Deposit Fund, as referred to in paragraph (2) of subdivision (d), were reduced by 28 percent.

(2) (A) Except as provided in subparagraphs (B), (C), and (D), for the 1993–94 transfer year and subsequent transfer years, transfer amounts shall be increased for the particular transfer year in the amounts necessary to fund the nonfederal share of the total supplemental payment adjustment amounts of all types that arise under Section 14105.98. These increases shall be paid only by those transferor entities that are licensees of hospitals that are projected to receive some or all of the particular supplemental payments, and the increases shall be paid by the transferor entities on a pro rata basis in connection with the particular supplemental payments. For purposes of this paragraph, supplemental payment adjustment amounts shall be deemed to arise for the particular transfer year as of the date specified in Section 14105.98. Transfer amounts to fund the nonfederal share of the payments shall be paid for the particular transfer year within 20 days after the department notifies the transferor entity in writing of the additional transfer amount to be paid.

(B) For the 1995–96 transfer year, the nonfederal share of the secondary supplemental payment adjustments described in paragraph (9) of subdivision (y) of Section 14105.96 shall be funded as follows:

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

(ii) One percent of the nonfederal share shall be funded by transfers from those public entities that are the licensees of the hospitals included in the ''other public hospitals'' group referred to in clauses (ii) and (iii) of subparagraph (B) of paragraph (9) of subdivision (y) of Section 14105.98. The transfer responsibilities for this 1 percent shall be allocated to the particular public entities on a pro rata basis, based on a formula or formulae customarily used by the department for allocating transfer amounts under this section. The formula or formulae shall take into account, through reallocation of transfer amounts as appropriate, the situation of hospitals whose secondary supplemental payment adjustments are restricted due to the application of the limitation set

forth in clause (v) of subparagraph (B) of paragraph (9) of subdivision (y) of Section 14105.98.

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

(C) For the 1997–98 transfer year, transfer amounts to fund the nonfederal share of the supplemental payment adjustments described in subdivision (af) of Section 14105.98 shall be funded by a transfer from the County of Los Angeles.

(D) (i) For the 1998–99 transfer year, transfer amounts to fund the nonfederal share of the supplemental payment adjustment amounts arising under subdivision (ah) of Section 14105.98 shall be increased as set forth in clause (ii).

(ii) The transfer amounts otherwise calculated to fund the supplemental payment adjustments referred to in clause (i) shall be increased on a pro rata basis by an amount equal to 28 percent of the amount to be transferred to the Health Care Deposit Fund for the 1999–2000 fiscal year, as referred to in paragraph (2) of subdivision (d).

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

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 or 128735 of the Health and Safety Code, for hospital fiscal years that ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 or 127285

of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 or 128735 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

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

(4) Transfer amounts calculated by the department may be increased or decreased by a percentage amount consistent with the Medi-Cal state plan.

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

(6) Notwithstanding any other provision of law, except for subparagraph (D) of paragraph (2), the total amount of transfers required from the transferor entities for any particular transfer year shall not exceed the sum of the following:

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

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

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

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

(C) With respect to those particular amounts in the fund resulting solely from the provisions of subparagraph (D) of paragraph (2), the department shall determine by September 30, 1999, whether these particular amounts exceed 28 percent of the amount to be transferred to

the Health Care Deposit Fund for the 1999–2000 fiscal year, as referred to in paragraph (2) of subdivision (d). Any excess amount so determined shall be returned to the particular transferor entities on a pro rata basis no later than October 31, 1999.

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

(i) (1) For the 1991–92 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments.

(2) (A) Except as provided in subparagraphs (B) and (C), for the 1992–93 transfer year and subsequent transfer years, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. However, for the 1997–98 and subsequent transfer years, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in the form of periodic installments according to a timetable established by the department. The timetable shall be structured to effectuate, on a reasonable basis, the prompt distribution of all nonsupplemental payment adjustments under Section 14105.98, and transfers to the Health Care Deposit Fund under subdivision (d).

(B) For the 1994–95 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in five equal installments.

(C) For the 1995–96 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in five equal installments.

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

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

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

(A) General funds of the transferor entity.

(B) Any other funds permitted by law to be used for these purposes, except that a transferor entity shall not submit to the Controller any federal funds unless those federal funds are authorized by federal law to be used to match other federal funds. In addition, no private donated funds from any health care provider, or from any person or organization affiliated with the health care provider, shall be channeled through a transferor entity or any other public entity to the fund, unless the donated funds will qualify under federal rules as a valid component of the nonfederal share of the Medi-Cal program and will be matched by federal funds. The transferor entity shall be responsible for determining that funds transferred meet the requirements of this subparagraph.

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

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

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

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

(k) All transfer amounts received by the Controller or amounts offset by the Controller shall immediately be deposited in the fund.

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

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

(n) Except as otherwise permitted by state and federal law, no transfer amount submitted to the Controller under this section, and no offset by the Controller pursuant to subdivision (j), shall be claimed or recognized as an allowable element of cost in Medi-Cal cost reports submitted to the department.

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

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

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

(3) Entities contracting with the department for any portion of the ten million dollars ($10,000,000) shall meet the objectives of the

department's plan to expand Medi-Cal managed care with regard to traditional and safety net providers.

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

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

(q) (1) Any local initiative entity that has performed unanticipated additional work for the purposes identified in subparagraph (B) of paragraph (2) of subdivision (p) resulting in additional costs attributable to the development of its local initiative health delivery system, may file a claim for reimbursement with the department for the additional costs incurred due to delays in start dates through the 1996–97 fiscal year. The claim shall be filed by the local initiative entity not later than 90 days after the effective date of the act adding this subdivision, and shall not seek extra compensation for any sum that is or could have been asserted pursuant to the contract disputes and appeals resolution provisions of the local initiative entity's respective two-plan model contract. All claims for unanticipated additional incurred costs shall be submitted with adequate supporting documentation including, but not limited to, all of the following:

(A) Invoices, receipts, job descriptions, payroll records, work plans, and other materials that identify the unanticipated additional claimed and incurred costs.

(B) Documents reflecting mitigation of costs.

(C) To the extent lost profits are included in the claim, documentation identifying those profits and the manner of calculation.

(D) Documents reflecting the anticipated start date, the actual start date, and reasons for the delay between the dates, if any.

(2) In determining any amount to be paid, the department shall do all of the following:

(A) Conduct a fiscal analysis of the local initiative entity's claimed costs.

(B) Determine the appropriate amount of payment, after taking into consideration the supporting documentation and the results of any audit.

(C) Provide funding for any such payment, as approved by the Department of Finance through the deficiency process.

(D) Complete the determination required in subparagraph (B) within six months after receipt of a local initiative entity's completed claim and

supporting documentation. Prior to final determination, there shall be a review and comment period for that local initiative entity.

(E) Make reasonable efforts to obtain federal financial participation. In the event federal financial participation is not allowed for this payment, the state's payment shall be 50 percent of the total amount determined to be payable.

SEC. 97. Section 14408.5 is added to the Welfare and Institutions Code, to read:

14408.5. A prepaid health plan that contracts with Medi-Cal managed care or contracts with the Healthy Families Program may provide application assistance pursuant to Section 12693.325 of the Insurance Code during the eligibility redetermination process in order to allow persons to retain coverage.

SEC. 98. Section 14409 of the Welfare and Institutions Code is amended to read:

14409. (a) No prepaid health plan, marketing representative, or marketing organization shall in any manner misrepresent itself, the plans it represents, or the Medi-Cal program or Healthy Families Program. Violations of this section shall include, but are not limited to:

(1) False or misleading claims that marketing representatives are employees or representatives of the state, county, or anyone other than the prepaid health plan or the organization by whom they are reimbursed.

(2) False or misleading claims that the prepaid health plan is recommended or endorsed by any state or county agency, or by any other organization which has not certified its endorsement in writing to the prepaid health plan.

(3) False or misleading claims that the state or county recommends that a Medi-Cal beneficiary enroll in a prepaid health plan.

(4) Claims that a Medi-Cal beneficiary will lose his benefits under the Medi-Cal program or any other health or welfare benefits to which he is legally entitled, if he does not enroll in a prepaid health plan.

(b) Violations of this article or regulations adopted by the department pursuant to this article shall result in one or more of the following sanctions that are appropriate to the specific violation, considering the nature of the offense and frequency of occurrence within the prepaid health plan:

(1) Revocation of one or more permitted methods of marketing.

(2) Termination of authorization for a plan to provide application assistance.

(3) Refusal of the department to accept new enrollments for a period specified by the department.

(4) Refusal of the department to accept enrollments submitted by a marketing representative or organization.

(5) Forfeiture by the plan of all or part of the capitation payments for persons enrolled as a result of such violations.

(6) Requirement that the prepaid health plan in violation of this article personally contact each enrollee enrolled to explain the nature of the violation and inform the enrollee of his right to disenroll.

(7) Application of sanctions as provided in Section 14304.

(8) Temporarily withhold capitation payments for beneficiaries enrolled in violation of this article, or regulations adopted thereunder, until the prepaid health plan is in substantial compliance with the statutory and regulatory provisions.

(c) Any marketing representative who violates subdivision (a) while engaged in door-to-door solicitation is guilty of a misdemeanor, and shall be subject to a fine of five hundred dollars ($500) or imprisonment in the county jail for six months, or both.

SEC. 99. Section 16809 of the Welfare and Institutions Code, as amended by Section 68 of Chapter 146 of the Statutes of 1999, is amended to read:

16809. (a) (1) The board of supervisors of a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, by adopting a resolution to that effect, may elect to participate in the County Medical Services Program. The County Medical Services Program shall have responsibilities for specified health services to county residents certified eligible for those services by the county.

(2) If the County Medical Services Program Governing Board contracts with the department to administer the County Medical Services Program, that contract shall include, but need not be limited to, all of the following:

(A) Provisions for the payment to participating counties for making eligibility determinations based on the formula used by the County Medical Services Program for the 1993–94 fiscal year.

(B) Provisions for payment of expenses of the County Medical Services Program Governing Board.

(C) Provisions relating to the flow of funds from counties' vehicle license fees, sales taxes, and participation fees and the procedures to be followed if a county does not pay those funds to the program.

(D) Those provisions, as applicable, contained in the 1993–94 fiscal year contract with counties under the County Medical Services Program.

(3) The contract between the department and the County Medical Services Program Governing Board shall require that the state maintain at least the level of administrative support provided to the County Medical Services Program for the 1993–94 fiscal year. The department may decline to implement decisions made by the governing board that

would require a greater level of administrative support than that for the 1993–94 fiscal year. The department may implement decisions upon compensation by the governing board to cover that increased level of support.

(4) The department shall administer the County Medical Services Program pursuant to the provisions of the 1993–94 fiscal year contract with the counties and regulations relating to the administration of the program until the County Medical Services Program Governing Board executes a contract for the administration of the County Medical Services Program and adopts regulations for that purpose.

(5) The department shall not be liable for any costs related to decisions of the County Medical Services Program Governing Board that are in excess of those set forth in the contract between the department and the County Medical Services Program Governing Board.

(b) Each county intending to participate in the County Medical Services Program pursuant to this section shall submit to the Governing Board of the County Medical Services Program a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year in which the county will participate in the County Medical Services Program.

(c) A county participating in the County Medical Services Program pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) (1) The County Medical Services Program Account is established in the County Health Services Fund. The following amounts may be deposited in the account:

(A) Any interest earned upon money deposited in the account.

(B) Moneys provided by participating counties or appropriated by the Legislature to the account.

(C) Moneys loaned pursuant to subdivision (q).

(2) The methods and procedures used to deposit funds into the account shall be consistent with the methods used by the program during the 1993–94 fiscal year.

(e) Moneys in the program account shall be used by the department, pursuant to its contract with the County Medical Services Program Governing Board, to pay for health care services provided to the persons meeting the eligibility criteria established pursuant to subdivision (j) and to pay for the expense of the governing board as set forth in the contract between the board and the department.

(f) (1) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article

4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, County Medical Services Program Governing Board expenses, or for expenditures to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) A separate County Medical Services Program Reserve Account is established in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the budget for health services for all counties electing to participate in the County Medical Services Program under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees as determined by the County Medical Services Program Governing Board pursuant to subdivision (i). Nothing in this section shall preclude the CMSP Governing Board from establishing other reserves.

(h) Moneys in the program account and the reserve account, except for moneys provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (p) shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay participation fees as established by the County Medical Services Program Governing Board and their jurisdictional risk amount in a method that is consistent with that established in the 1993–94 fiscal year.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the CMSP Governing Board.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) For the 1991–92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs in excess of the amounts deposited in the reserve fund.

(B) (i) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000 fiscal year and 2000–01 fiscal year. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus the additional cost increases in excess of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000 fiscal year and 2000-01 fiscal year. In the 1994–95 fiscal year, the amount of the state risk shall be twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, in addition to the cost of administrative support pursuant to paragraph (3) of subdivision (a).

(ii) For the 1999–2000 fiscal year and 2000–01 fiscal year, the state shall not be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue. Counties shall be at risk up to the cumulative annual growth in the Local Revenue Fund created by Section 17600, according to the table specified in paragraph (2), to the County Medical Services Program, plus any additional cost increases for the 1999–2000 fiscal year and 2000-01 fiscal year.

(C) The CMSP Governing Board, after consultation with the department, shall establish uniform eligibility criteria and benefits for the County Medical Services Program.

(2) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,150
Amador	620,264
Butte	5,950,593
Calaveras	913,959

Colusa	799,988
Del Norte	781,358
El Dorado	3,535,288
Glenn	787,933
Humboldt	6,883,182
Imperial	6,394,422
Inyo	1,100,257
Kings	2,832,833
Lassen	687,113
Madera	2,882,147
Marin	7,725,909
Mariposa	435,062
Modoc	469,034
Mono	369,309
Napa	3,062,967
Nevada	1,860,793
Plumas	905,192
San Benito	1,086,011
Shasta	5,361,013
Sierra	135,888
Siskiyou	1,372,034
Solano	6,871,127
Sonoma	13,183,359
Sutter	2,996,118
Tehama	1,912,299
Trinity	611,497
Tuolumne	1,455,320
Yuba	2,395,580

(3) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the jurisdictional risk limitation for the counties that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall be the amount specified in paragraph (A) plus the amount determined pursuant to paragraph (B), minus the amount specified by the County Medical Services Program Governing Board as participation fees.

(A)

Jurisdiction	Amount
Lake	$1,022,963
Mendocino	1,654,999

Merced	2,033,729
Placer	1,338,330
San Luis Obispo	2,000,491
Santa Cruz	3,037,783
Yolo	1,475,620

(B) The amount of funds necessary to fully fund the anticipated costs for the county shall be determined by the CMSP Governing Board before a county is permitted to participate in the County Medical Services Program.

(4) For the 1994–95 and 1995–96 fiscal years, the specific amounts and method of apportioning risk to each participating county may be adjusted by the CMSP Governing Board.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. Contracts of the department pursuant to this section shall have no force or effect unless they are approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) Third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3 may be pursued.

(n) Under the program provided for in this section, the department may reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if the California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

(o) Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(p) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department may collectively pursue identified options for the realization of program savings.

(q) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(r) Regulations adopted by the department pursuant to this section shall remain operative and shall be used to operate the County Medical Services Program until a contract with the County Medical Services Program Governing Board is executed and regulations, as appropriate, are adopted by the County Medical Services Program Governing Board. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, those regulations adopted under the County Medical Services Program shall become inoperative until January 1, 1998, except those regulations that the department, in consultation with the County Medical Services Program Governing Board, determines are needed to continue to administer the County Medical Services Program. The department shall notify the Office of Administrative Law as to those regulations the department will continue to use in the implementation of the County Medical Services Program.

(s) Moneys appropriated from the General Fund to meet the state risk as set forth in subparagraph (B) of paragraph (1) of subdivision (j) shall not be available for those counties electing to disenroll from the County Medical Services Program.

(t) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 100. Funds appropriated in the Budget Act of 2000 for the purpose of improving the dental infrastructure of nonprofit, community-based clinics, as determined by the State Department of Health Services, shall be available for expenditure through June 30, 2002.

SEC. 101. Notwithstanding any other provision of law, the funds appropriated by the Budget Act of 2000 for the tobacco use competitive grants program provided for in Section 104385 of the Health and Safety Code, the tobacco prevention media campaign provided for in subdivision (e) of Section 104375 of the Health and Safety Code, the evaluation of the tobacco use prevention and education program set forth in subdivision (b) and (c) of Section 104375 of the Health and Safety Code, school-based tobacco use prevention pursuant to Sections 104420, 104425, 104430, and 104435 of the Health and Safety Code, and local tobacco use prevention programs set forth in Section 104400 of the Health and Safety Code, shall be available for encumbrance and expenditure without regard to fiscal years for two years beyond the date of appropriation.

SEC. 102. The State Department of Health Services shall provide the fiscal and policy committees of the Legislature with a copy of any hospital outpatient rate analysis submitted to the court regarding the case of Orthopedic Hospital and California Hospital Association v. Belshe', once the analysis is considered to be part of the public record as defined by the California Public Records Act.

SEC. 103. (a) The State Department of Health Services shall allocate any rate increases for Denti-Cal Program services provided through the Budget Act of 2000 across procedure codes as deemed appropriate by the department after consultation with professional dental organizations.

(b) It is the intent of the Legislature for rate increases for Denti-Cal Program services provided through the Budget Act of 2000 to be provided to dental plans operating under a managed care environment, as defined by the department, on an equitable basis in order to ensure recipient access to services.

SEC. 104. (a) The State Department of Developmental Services shall identify a range of options to meet the future needs of individuals currently served, or who will need services similar to those provided, in state developmental centers.

(b) The department shall establish a workgroup consisting of system stakeholders to assist in examining the various options including, but not limited to, renovation of existing developmental centers, smaller state owned and operated facilities, state operated leased facilities, privately owned and operated facilities, and services and supports provided in consumer owned or leased homes.

(c) Options shall be evaluated for their appropriateness in meeting consumers' needs, compliance with requirements of federal and state laws, and efficient use of state and federal funds.

(d) The department shall report on these options and the recommendations of the workgroup to the Legislature by March 1, 2001.

SEC. 105. (a) The Legislature finds and declares all of the following:

(1) Lack of insurance coverage for children results in reduced access to medical services, resulting in restricted access to primary and preventive care and increased reliance on emergency rooms and hospitals for treatment.

(2) Almost 50 percent of uninsured children eligible for the Medi-Cal program, or the Healthy Families programs are already enrolled in the California Supplemental Food Program for Women, Infants and Children, the School Lunch program, or the Food Stamps program. Not only have these families been certified as income-eligible for these programs, they have also already provided extensive information to enroll in the programs.

(3) It is the intent of the Legislature, therefore, to make the Medi-Cal and Healthy Families enrollment process more user-friendly and efficient for children currently enrolled in programs with income eligibility guidelines similar to Medi-Cal and the Healthy Families program, and thus make the process more accessible for those in need of care.

(b) The State Department of Health Services and the Managed Risk Medical Insurance Board shall develop options for implementing streamlined processes for establishing Medi-Cal program and Healthy Families program eligibility, as applicable, for a child enrolled in or applying to certain public programs, such as the School Lunch program, the Food Stamp program, and the California Supplemental Food Program for Women, Infants and Children, or other programs as determined by the department. The department shall be designated as the lead entity in this effort. Other state departments, such as the State Department of Social Services and the State Department of Education, shall respond to inquiries from the State Department of Health Services on an as needed basis regarding the programs they administer.

(c) The department shall provide these options to the chairs of the policy and fiscal committees of the Legislature by no later than February 1, 2001.

SEC. 106. The State Department of Health Services may adopt emergency regulations to implement the applicable provisions of this act in accordance with the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect for no more than 180 days.

SEC. 107. 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. 108. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the administration of this act relating to health care for the entire 2000–01 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 94

An act to amend Sections 104161, 104162, and 104163 of, to add and repeal Section 104160 of, and to repeal Section 104164 of, the Health and Safety Code, relating to health.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

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

SECTION 1. Section 104160 of the Health and Safety Code is repealed.

SEC. 2. Section 104160 is added to the Health and Safety Code, to read:

104160. The State Department of Health Services shall utilize existing mechanisms to maintain, expand, and ensure quality breast cancer treatment for low-income, and uninsured persons who are diagnosed with breast cancer. The department shall award one or more contracts to provide breast cancer treatment through private or public nonprofit organizations, including, but not limited to, community-based organizations, local health care providers, and the University of California medical centers. The contracts shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 3. Section 104161 of the Health and Safety Code is amended to read:

104161. For purposes of this chapter, breast cancer treatment shall include, but shall not be limited to, lumpectomy, mastectomy, chemotherapy, hormone therapy, radiotherapy, and reconstructive surgery.

SEC. 4. Section 104162 of the Health and Safety Code is amended to read:

104162. Treatment under this chapter shall be provided to uninsured and underinsured persons with incomes at or below 200 percent of the federal poverty level.

SEC. 5. Section 104163 of the Health and Safety Code is amended to read:

104163. The department shall contract for breast cancer treatment services only at the level of funding budgeted from state and other sources during a fiscal year in which the Legislature has appropriated funds to the department for this purpose.

SEC. 6. Section 104164 of the Health and Safety Code is repealed.

CHAPTER 95

An act to amend Sections 19356.6 and 19356.7 of, and to amend and repeal Section 19355.5 of, the Welfare and Institutions Code, relating to habilitation services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

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

SECTION 1. (a) It is the intent of the Legislature, in enacting this act, to fund a current-year deficiency resulting from expenditures in excess of Budget Act of 1999 appropriations and reimbursements for habilitation services and vocational rehabilitation supported employment services. It is the further intent of the Legislature to amend supported employment reimbursement rate provisions to control supported employment costs and eliminate excess expenditures resulting from unregulated changes in the number of clients in group placement, payments for clients not funded by the Department of Rehabilitation, and for other inefficiencies.

(b) The Legislature finds and declares that this act is necessary because Section 19355.5 of the Welfare and Institutions Code requires a rate reduction in order to avoid a deficiency.

SEC. 2. Section 19355.5 of the Welfare and Institutions Code is amended to read:

19355.5. (a) Notwithstanding any other provision of law, effective July 1, 2000, the twenty-seven dollar and fifty cent ($27.50) hourly rate for supported employment services established pursuant to paragraph (2) of subdivision (b) of Section 19356.6 shall be reduced by the percentage necessary to ensure that projected total General Fund

expenditures and reimbursements for habilitation services and vocational rehabilitation supported employment services, including services pursuant to paragraph (2) of, and clauses (i) to (iii), inclusive, of subparagraph (B) of paragraph (2) of, subdivision (b) of Section 19356.6, and, for the habilitation services program only, ancillary services, based on Budget Act caseload projections, do not exceed the General Fund and reimbursement appropriations for these services in the annual Budget Act, exclusive of increases in job coach hours due to unanticipated increases in caseload or the average client workday. This reduction shall not be implemented sooner than 30 days after notification in writing of the necessity for the reduction to the appropriate fiscal committees and policy committees of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

(b) The department shall annually make three projections of General Fund expenditures and reimbursements, which shall be based on invoices for supported employment services received by October 5, January 5, and April 5 of each fiscal year, respectively, and projections shall be submitted to the Department of Finance no later than 30 days after these dates. The projected expenditures shall be based on the number of job coach hours for which the state has been billed and projected caseload growth, including change in the average client workday.

(c) This section shall not be implemented until the Department of Finance certifies to the Legislature that the Department of Rehabilitation is able to compile and provide timely data on job coach hours, group size, and average client workday in the supported employment program.

(d) This section shall become inoperative on September 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. 3. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The definitions contained in this subdivision shall govern the construction of this section, with respect to services provided through the Habilitation Services Program, and unless the context requires otherwise, the following terms shall have the following meanings:

(1) ''Supported employment'' means paid work that is integrated in the community for individuals with developmental disabilities whose vocational disability is so severe that they would be unable to achieve this employment without specialized services and would not be able to

retain this employment without an appropriate level of ongoing postemployment support services.

(2) ''Integrated work'' means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with nondisabled individuals other than those who are providing services to those individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons.

(3) ''Supported employment placement'' means the employment of an individual with a developmental disability by an employer in the community, directly or through contract with a supported employment program, and the provision of supported employment services including the provision of ongoing postemployment services necessary for the individual to retain employment. Services for those individuals receiving individualized services from a supported employment program shall decrease as the individual adjusts to his or her employment and the employer assumes many of those functions.

(4) ''Allowable supported employment services'' means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program for the purpose of achieving supported employment as an outcome for individuals with developmental disabilities, which may include any of the following:

(A) Program staff time spent conducting job analysis of supported employment opportunities for a specific consumer.

(B) Program staff time spent in the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, such as employer supervision reimbursed by the supported employment program, are approved by the Habilitation Services Program.

(C) Training occurring in the community, in adaptive functional and social skills necessary to ensure job adjustment and retention such as social skills, money management, and independent travel.

(D) Counseling with a consumer's significant others to ensure support of a consumer in job adjustment.

(E) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention.

(F) Job development to the extent authorized by the Habilitation Services Program.

(G) Ongoing postemployment support services needed to ensure the consumer's retention of the job.

(5) ''Group services'' means job coach-supported employment services in a group supported employment placement at a job coach-to-client ratio of not less than one-to-three nor more than one-to-eight where a minimum of three clients are department-funded.

(6) ''Individualized services'' means job coach and other supported employment services for department-funded clients in a supported employment placement at a job coach-to-client ratio of one-to-one.

(b) (1) The Habilitation Services Program shall set rates for supported employment services provided in accordance with this section. The Habilitation Services Program shall apply rates in accordance with this section to those work-activity programs or program components of work-activity programs approved by the department to provide supported employment and to new programs or components approved by the Habilitation Services Program to provide supported employment services. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) (A) The hourly rate for supported employment services provided to clients receiving individualized services shall be twenty-seven dollars and fifty cents ($27.50).

(B) The hourly rate for group services shall be twenty-seven dollars and fifty cents ($27.50) regardless of the number of clients served in the group. Clients in a group shall be scheduled to start and end work at the same time, unless an exception is approved in advance by the Habilitation Services Program. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. Where the number of clients in a group supported employment placement drops to fewer than three department-funded clients, the program provider shall, within 90 days from the date of this occurrence and consistent with Section 19356.7, do one of the following:

(i) Add one or more department-funded clients to the group.

(ii) Move the remaining clients to another existing group.

(iii) Move the remaining clients, if appropriate, to individualized placement.

(iv) Terminate services.

(C) For clients receiving group services the Habilitation Services Program may set a higher hourly rate for supported employment services, based upon the additional cost to provide ancillary services, when there is a documented and demonstrated need for a higher rate because of the nature and severity of the disabilities of the consumer, as determined by the Habilitation Services Program.

(D) In addition, fees shall be authorized for the following:

(i) A two hundred dollar ($200) fee shall be paid upon intake of a consumer into an agency's supported employment program, unless that individual has completed a supported employment intake process with

that same agency within the past 12 months, in which case no fee shall be paid.

(ii) A four hundred dollar ($400) fee shall be paid upon placement of an individual in an integrated job, unless that individual is placed with another consumer or consumers assigned to the same job coach during the same hours of employment, in which case no fee shall be paid.

(iii) A four hundred dollar ($400) fee shall be paid after a 90-day retention of a consumer in a job, unless that individual has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment, in which case no fee shall be paid.

(3) These rates shall take effect July 1, 1998.

(4) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation supported employment services pursuant to this section.

(5) For individuals receiving individualized services, services may be provided on or off the jobsite.

(6) For individuals receiving group services, ancillary services may be provided, except that all postemployment and ancillary services shall be provided at the worksite.

(c) If a consumer has been placed on a waiting list for vocational rehabilitation as a result of the department's order of selection regulations, the Habilitation Services Program may pay for those supported employment services leading to job development set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) The Habilitation Services Program shall approve, in advance, any change in the number of clients served in a group.

(e) The department, in consultation with appropriate stakeholders, shall report to the Department of Finance and the Legislature, on or before January 1, 2001, and annually thereafter, on the implementation of supported employment rates and group size requirements pursuant to this section. The report shall include, but not be limited to, data on the sizes of client groups, the change in average group size, client outcomes, client earnings, to the extent available, and projected caseload and expenditures for the supported employment program. On or before February 1, 2003, the department shall submit to the Department of Finance and the Legislature a final report containing, at a minimum, cumulative data and outcome measures, and shall include recommendations on whether to extend the effective dates of this section and Sections 19355.5, 19355.6, and 19356.7, and recommendations for appropriate changes to those sections.

(f) This section shall become inoperative on September 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. 4. Section 19356.7 of the Welfare and Institutions Code is amended to read:

19356.7. (a) Proposals for funding of new, and modifications to existing, supported employment programs and components by the Habilitation Services Program shall be submitted to the Habilitation Services Program and shall contain sufficient information to enable the Habilitation Services Program to act on the proposal under this section.

(b) Provided that sufficient funding is available to finance services by supported employment programs and components, the Habilitation Services Program may approve or disapprove proposals based on all of the following criteria:

(1) The need for a supported employment program or component.

(2) The capacity of the program to deliver supported employment services effectively.

(3) The ability of the program to comply with accreditation requirements of the Habilitation Services Program. The accreditation standards adopted by the department shall be the standards developed by the Commission of Rehabilitation Facilities and published in the most current edition of the Standards Manual for Organizations Serving People with Disabilities, as well as any subsequent amendments to the manual.

(4) A profile of an average consumer in the program or component, showing the planned progress toward self-reliance as an employee, measured, as appropriate, in terms of decreasing support services.

(5) The ability of the program to achieve integrated paid work on the average for consumers served.

(c) The Habilitation Services Program may purchase supported employment services at the rates authorized in Section 19356.6 only from supported employment programs or components approved under this section.

(d) For purposes of evaluating the effectiveness of the entire program, and individual supported employment programs or components, the Habilitation Services Program may monitor supported employment programs or components to determine whether the performance agreed upon in the approved proposal is being achieved. When the performance of a supported employment program or component does not comply with the criteria according to which it was approved for funding pursuant to subdivision (b), the Habilitation Services Program may establish prospective performance criteria for the program or component, with which the program or component shall comply as a condition of continued funding.

(e) The department shall adopt regulations to implement the requirements of Sections 19352, 19356.6, and this section, in consultation with the California Rehabilitation Association, the United Cerebral Palsy Association, and the Association of Retarded Citizens of California.

(f) This section shall become inoperative on September 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. 5. (a) There is hereby appropriated the sum of four million eight hundred eighteen thousand dollars ($4,818,000) to the Department of Rehabilitation, as follows, for the purposes specified in subdivision (b):

(1) Three million two hundred fifty-four thousand dollars ($3,254,000) from the General Fund.

(2) One million five hundred sixty-four thousand dollars ($1,564,000) from the Federal Trust Fund.

(b) Funds appropriated pursuant to subdivision (a) shall be used for the cost of supported employment services provided for pursuant to Section 19356.6 provided during the 1999–2000 fiscal year.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

By immediately funding the Habilitation Services Program deficiency identified in Section 1 of this act, this act prevents a major reduction in the 1999–2000 fiscal year hourly reimbursement rate for supported employment services for adults with developmental disabilities that would otherwise be implemented pursuant to Section 19355.5 of the Welfare and Institutions Code. In addition, this act, by establishing new measures to control expenditures for supported employment services, would ensure the fiscal integrity of the program. In order, therefore, to avoid a major disruption in supported employment services during the 1999–2000 fiscal year, and to ensure that the fiscal integrity of that program is maintained at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 96

An act to amend Sections 13540, 13541, and 13542 of, and to add and repeal Section 13543 of, the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 2000. Filed with
Secretary of State July 7, 2000.]

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

SECTION 1. Section 13540 of the Penal Code is amended to read:

13540. (a) Any person or persons desiring peace officer status under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who, on January 1, 1990, were not entitled to be designated as peace officers under that chapter shall request the Commission on Peace Officer Standards and Training to undertake a feasibility study regarding designating that person or persons as peace officers. The request and study shall be undertaken in accordance with regulations adopted by the commission. The commission may charge any person requesting a study, a fee, not to exceed the actual cost of undertaking the study. Nothing in this article shall apply to or otherwise affect the authority of the Director of Corrections, the Director of the Youth Authority, the Director of the Youthful Offender Parole Board, or the Secretary of the Youth and Adult Correctional Agency to designate peace officers as provided for in Section 830.5.

(b) Any person or persons who are designated as peace officers under Chapter 4.5, (commencing with Section 830) of Title 3 of Part 2, and who desire a change in peace officer designation or status, shall request the Commission on Peace Officer Standards and Training to undertake a study to assess the need for a change in designation or status. The request and study shall be undertaken in accordance with regulations adopted by the commission. The commission may charge any person, agency, or organization requesting a study, a fee, not to exceed the actual cost of undertaking the study.

SEC. 2. Section 13541 of the Penal Code is amended to read:

13541. (a) Any study undertaken under this article shall include, but shall not be limited to, the current and proposed duties and responsibilities of persons employed in the category seeking the designation change, their field law enforcement duties and responsibilities, their supervisory and management structure, and their proposed training methods and funding sources.

(b) A study undertaken pursuant to subdivision (b) of Section 13540 shall include, but shall not be limited to, the current and proposed duties and responsibilities of the persons employed in the category seeking the designation change and their field law enforcement duties and responsibilities, and the extent to which their current duties and responsibilities require additional peace officer powers and authority.

SEC. 3. Section 13542 of the Penal Code is amended to read:

13542. (a) In order for the commission to give a favorable recommendation as to a change in designation to peace officer status, the person or persons desiring the designation change shall be employed by an agency with a supervisory structure consisting of a chief law enforcement officer, the agency shall agree to comply with the training requirements set forth in Section 832, and shall be subject to the funding restriction set forth in Section 13526. The commission shall issue the study and its recommendations to the requesting person or agency within 18 months of the mutual acceptance of a contract between the requesting person or agency and the commission. A copy of that study and recommendations shall also be submitted to the Legislature.

(b) (1) In order for the commission to give a favorable recommendation as to a change in peace officer designation or status, the person or persons desiring the change in peace officer designation or status shall be employed by an agency that is currently participating in the Peace Officer Standard Training program.

(2) If the designation change is moving the person or persons into Section 830.1, the person or persons shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training, set forth in Section 832.4.

(3) The commission shall issue the study and its recommendations, as specified in subdivision (b) of Section 13540, to the requesting person or persons, within 12 months of the mutual acceptance of a contract between the requesting person or agency and the commission, or as soon as possible thereafter if the commission shows good cause as to the need for an extension of the 12-month time period.

(4) A copy of that study and recommendation shall also be submitted to the Legislature.

SEC. 4. Section 13543 is added to the Penal Code, to read:

13543. (a) Notwithstanding the provisions of paragraph (3) of subdivision (b) of Section 13542, the commission shall issue a study and its recommendations to the Los Angeles Unified School District Police Department for a change in peace officer designation of that department's school police from Section 830.32 to Section 830.1 nine months from the date of whichever of the following occurs last:

(1) This section becomes effective.

(2) The commission has received a request for that study from the Los Angeles Unified School District Police Department.

(b) The commission may charge the Los Angeles Unified School District Police Department a fee, not to exceed the actual costs of undertaking the study.

(c) The commission shall submit a copy of its study and recommendations prepared pursuant to subdivision (a) to the Legislature.

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

In order to provide for the preservation and enhancement of public safety through the examination of the potential for improved enforcement of the law at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 97

An act to amend Section 1109 of the Evidence Code, relating to abuse.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

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

SECTION 1. Section 1109 of the Evidence Code is amended to read:

1109. (a) (1) Except as provided in subdivision (e) or (f), in a criminal action in which the defendant is accused of an offense involving domestic violence , evidence of the defendant's commission of other domestic violence is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352.

(2) Except as provided in subdivision (e) or (f), in a criminal action in which the defendant is accused of an offense involving abuse of an elder or dependent adult, evidence of the defendant's commission of other abuse of an elder or dependent adult is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352.

(b) In an action in which evidence is to be offered under this section, the people shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, in compliance with the provisions of Section 1054.7 of the Penal Code.

(c) This section shall not be construed to limit or preclude the admission or consideration of evidence under any other statute or case law.

(d) As used in this section, ''domestic violence'' has the meaning set forth in Section 13700 of the Penal Code. ''Abuse of an elder or a

dependent adult'' has the meaning set forth in Section 15610.07 of the Welfare and Institutions Code.

(e) Evidence of acts occurring more than 10 years before the charged offense is inadmissible under this section, unless the court determines that the admission of this evidence is in the interest of justice.

(f) Evidence of the findings and determinations of administrative agencies regulating the conduct of health facilities licensed under Section 1250 of the Health and Safety Code is inadmissible under this section.

CHAPTER 98

An act to amend Sections 52 and 52.1 of the Civil Code, relating to civil rights.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

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

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

(1) Section 52.1 of the Civil Code guarantees the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state without regard to his or her membership in a protected class identified by its race, color, religion, or sex, among other things.

(2) The decision in Boccato v. City of Hermosa Beach (1994) 29 Cal.App.4th 1797 misconstrued Section 52.1 of the Civil Code to require that an individual who brings an action, or on whose behalf an action is brought, pursuant to that section, be a member of one of those specified protected classes.

(b) It is the intent of the Legislature in enacting this act to clarify that an action brought pursuant to Section 52.1 of the Civil Code does not require the individual whose rights are secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of California to be a member of a protected class identified by its race, color, religion, or sex, among other things.

SEC. 2. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to Section 51 or 51.5, is liable for each and every offense for the actual damages, and any amount that may

be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than one thousand dollars ($1,000), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7 or 51.9, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right provided by Section 51.7 in any action brought by the person denied the right, or by the Attorney General, a district attorney, or a city attorney.

(3) Attorney's fees as may be determined by the court.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights described in this section, and that conduct is of that nature and is intended to deny the full exercise of those rights, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the person aggrieved.

(2) The facts pertaining to the conduct.

(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this section.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, national origin, or disability, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that action, the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions brought pursuant to this section are independent of any other actions, remedies, or procedures that may be available to an aggrieved party pursuant to any other law.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.

(g) This section does not 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 does this section 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.

(h) For the purposes of this section, ''actual damages'' means special and general damages. This subdivision is declaratory of existing law.

SEC. 3. Section 52.1 of the Civil Code is amended to read:

52.1. (a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in such a case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or

(b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the county clerk to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.9 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any such proceeding pursuant to the Code of Civil Procedure, if it be determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars ($1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed

reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

CHAPTER 99

An act to amend Section 15438 of, and to add Section 15438.6 to, the Government Code, and to add Section 1204.4 to the Health and Safety Code, relating to health.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

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

SECTION 1. Section 15438 of the Government Code is amended to read:

15438. Subject to the conditions, restrictions, and limitations of Section 15438.1, the authority may do any 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 from any agency of the United States or any agency of the State of California or any municipality, county or other political subdivision thereof, or from any individual, association, or corporation gifts, grants, or donations of moneys for achieving any of the purposes of this chapter.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this part.

(f) Determine the location and character of any project to be financed under this part, and to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, fund, finance, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any or all of those purposes, to enter into contracts for the management and operation of a project or other health facilities

owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by that participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, and as the agent of the authority, to enter into contracts for any or all of those purposes, including contracts for the management and operation of that project or other health facilities owned by the authority.

(g) Acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell, by installment sale or otherwise, any lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, which are located within the state the authority determines necessary or convenient for the acquisition, construction, or financing of a health facility or the acquisition, construction, financing, or operation of a project, upon the terms and at the prices considered by the authority to be reasonable and which can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution 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 a project or any portion of a project in money, property, labor, or other things of value.

(i) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in connection with the financing of a project or working capital in accordance with an agreement between the authority and the participating health institution. However, no loan to finance a project shall exceed the total cost of the project, as determined by the participating health institution and approved by the authority. Funds for secured loans may be provided from the California Health Facilities Financing Fund pursuant to subdivision (b) of Section 15439 to small or rural health facilities pursuant to authority guidelines.

(j) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in accordance with an agreement between the authority and the participating health institution to refinance indebtedness incurred by that participating health institution in connection with projects undertaken or for health facilities acquired or for working capital financed prior to or after January 1, 1980. Funds for secured loans may be provided from the California Health

Facilities Financing Fund pursuant to subdivision (b) of Section 15439 to small or rural health facilities pursuant to authority guidelines.

(k) Mortgage all or any portion of interest of the authority in a project or other health facilities and the property on which that project or other health facilities are located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible, and to assign or pledge all or any portion of the interests of the authority in mortgages, deeds of trust, indentures of mortgage or trust or similar instruments, notes, and security interests in property, tangible or intangible, of participating health institutions to which the authority has made loans, and the revenues therefrom, including payments or income from any thereof owned or held by the authority, for the benefit of the holders of bonds issued to finance the project or health facilities or issued to refund or refinance outstanding indebtedness of participating health institutions as permitted by this part.

(*l*) Lease to a participating health institution the project being financed or other health facilities conveyed to the authority in connection with that financing, upon the terms and conditions the authority determines proper, and to charge and collect rents therefor and to terminate the lease upon the failure of the lessee to comply with any of the obligations of the lease; and to include in that lease, if desired, provisions granting the lessee options to renew the term of the lease for the period or periods and at the rent, as determined by the authority, to purchase any or all of the health facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of that project or health facilities or for refunding outstanding indebtedness of a participating health institution, then the authority may convey any or all of the project or the other health facilities to the lessee or lessees thereof with or without consideration.

(m) Charge and equitably apportion among participating health institutions, the administrative costs and expenses incurred by the authority in the exercise of the powers and duties conferred by this part.

(n) Obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, 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 loan, lease, or obligation, made or entered into pursuant to this part; and notwithstanding any other provisions of this part, to enter into any agreement, contract, or any other instrument whatsoever with respect to that insurance or guarantee, to accept payment in the manner and form as provided therein in the event of default by a participating health institution, and to assign that insurance or guarantee as security for the authority's bonds.

(o) Enter into any and all agreements or contracts, including agreements for liquidity and credit enhancement, interest rate swaps or hedges, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly granted by this part.

(p) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in any obligations authorized by the resolution authorizing the issuance of the bonds secured thereof or authorized by law for the investment of trust funds in the custody of the Treasurer.

(q) Establish and maintain a reciprocal insurance company or an insurance program that shall be treated and licensed as a reciprocal insurance company for regulatory purposes under the Insurance Code on behalf of one or more participating health institutions, to provide for payment of judgments, settlement of claims, expense, loss and damage that arises, or is claimed to have arisen, from any act or omission of, or attributable to, the participating health institution or any nonprofit organization controlled by, or controlling or under common control with, the participating health institution, their employees, agents or others for whom they may be held responsible, in connection with any liability insurance (including medical malpractice); set premiums, ascertain loss experience and expenses and determine credits, refunds, and assessments; and establish limits and terms of coverage; and engage any expert or consultant it deems necessary or appropriate to manage or otherwise assist with the insurance company or program; and pay any expenses in connection therewith; and contract with the participating health institution or institutions for insurance coverage from the insurance company or program and for the payment of any expenses in connection therewith including any bonds issued to fund or finance the insurance company or program.

(r) Provide funding for self-insurance for participating health institutions. However, there shall be no pooling of liability risk among participating health institutions except as provided in subdivision (f) of Section 15438.5.

(s) (1) Make grants-in-aid to any participating small or rural hospital, as defined in Section 124840 of the Health and Safety Code, in connection with the financing of a project or for working capital in accordance with an agreement between the authority and the hospital. However, no grant to finance a project shall exceed the total cost of the project, as determined by the hospital and approved by the authority.

(2) Make grants-in-aid to any small or rural hospital, as defined in Section 124840 of the Health and Safety Code, in accordance with an agreement between the authority and the hospital to discharge indebtedness incurred by the hospital in connection with projects

undertaken, for health facilities acquired, or for working capital financed prior to the effective date of this subdivision.

(3) Grants shall be made pursuant to this subdivision only from HELP Program funds, not to exceed eight hundred seventy thousand dollars ($870,000). In consultation with representatives of the hospital industry and other affected parties, the authority shall develop a process and criteria for making grants under this subdivision, including obtaining legal opinions on appropriateness of grants to private facilities for capital outlay purposes.

(t) Award grants to any eligible clinic pursuant to Section 15438.6.

SEC. 2. Section 15438.6 is added to the Government Code, to read:

15438.6. (a) This section shall be known, and may be cited, as the Cedillo-Alarcon Community Clinic Investment Act of 2000.

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

(1) Primary care clinics require a one-time outlay for capital in order to continuously perform their vital role. Many primary care clinics are currently at capacity and in order to increase access to their services and allow them to expand to cover the growing need for health care for the vulnerable populations in California, these capital funds are necessary.

(2) Primary care clinics are the health care safety net for the most vulnerable populations in California: uninsured, underinsured, indigent, and those in shortage designation areas. Primary care clinics provide health care regardless of the ability to pay for services.

(3) Approximately 7.4 million Californians lack health insurance, a number that increases by 50,000 per month.

(4) Primary care clinics have been historically and woefully underfunded.

(5) Primary care clinics are the most cost-effective means of serving California's vulnerable populations.

(6) The failure to adequately fund primary care clinics has resulted in significant costs to the state in the form of unnecessary emergency room visits. Also, the lack of preventive care results in significant costs when patients become severely ill.

(c) The authority may award grants to any eligible clinic, as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206 of the Health and Safety Code, for purposes of financing capital outlay projects, as defined in subdivision (f) of Section 15432.

(d) The authority, in consultation with representatives of primary care clinics and other appropriate parties, shall develop selection criteria and a process for awarding grants under this section. The authority may take into account at least the following factors when selecting recipients and determining amount of grants:

(1) The percentage of total expenditures attributable to uncompensated care provided by an applicant.

(2) The extent to which the grant will contribute toward expansion of health care access by indigent, underserved, and uninsured populations.

(3) The need for the grant based on an applicant's total net assets, relative to net assets of other applicants. For purposes of this section, ''total net assets'' means the amount of total assets minus total liabilities, as disclosed in an audited financial statement prepared according to United States Generally Accepted Accounting Principles, and shall include unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets.

(4) The geographic location of the applicant, in order to maximize broad geographic distribution of funding.

(5) Demonstration by the applicant of project readiness and feasibility to the authority's satisfaction.

(6) The total amount of funds appropriated and available for purposes of this section.

(e) No grant to any clinic facility shall exceed two hundred fifty thousand dollars ($250,000).

(f) In no event shall a grant to finance a project exceed the total cost of the project, as determined by the clinic and approved by the authority. Grants shall be awarded only to clinics that have certified to the authority that all requirements established by the authority for grantees have been met.

(g) All projects that are awarded grants shall be completed within a reasonable period of time, to be determined by the authority. No funds shall be released by the authority until the applicant demonstrates project readiness to the authority's satisfaction. If the authority determines that the clinic has failed to complete the project under the terms specified in awarding the grant, the authority may require remedies, including the return of all or a portion of the grant. Certification of project completion shall be submitted to the authority by any clinic receiving a grant under this section.

(h) Any clinic receiving a grant under this section shall commit to using the health facility for the purposes for which the grant was awarded for the duration of the expected life of the project.

(i) Upon disbursement of all grant funds, the authority shall report to the Joint Legislative Budget Committee on the recipients of grants, the total amount of each grant, and the purpose for which each grant was awarded.

(j) (1) This section shall be implemented only to the extent that funds are appropriated for this purpose in the Budget Act of 2000.

(2) It is the intent of the Legislature that this section be financed by the enactment of another measure containing a one-time lump-sum appropriation of fifty million dollars ($50,000,000) from the General Fund to the California Health Facilities Financing Authority.

(3) It is the intent of the Legislature that the California Health Facilities Financing Authority be reimbursed for the costs of the administration of the implementation of this section from the appropriation specified in paragraph (2).

SEC. 3. Section 1204.4 is added to the Health and Safety Code, to read:

1204.4. The State Department of Health Services shall provide information to the California Health Facilities Financing Authority with respect to primary care clinic grant applicants for capital outlay projects as specified in Section 15438.6 of the Government Code.

CHAPTER 100

An act to amend Sections 30061, 30062, 30063, and 30064.1 of the Government Code, relating to law enforcement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

I am signing Assembly Bill No. 2885; however, I am deleting the allocation and the funding for the juvenile justice programs contained in this measure.

This bill appropriates $242,600,000 General Fund to provide funding for continuation of the Citizens' Option for Public Safety (COPS) program and to establish and fund local juvenile justice programs. From this $242,600,000 appropriation, the bill allocates (1) $121,300,000 for the COPS program (5.15 percent, $12,500,000 to district attorneys; 5.15 percent, $12,500,000 to counties for jail operations; and 39.7 percent, $96,300,000 to local agencies for front-line law enforcement), and (2) $121,300,000 to counties for juvenile justice programs. The provisions of this bill would sunset on January 1, 2005, and states legislative intent to appropriate at least $242,600,000 in fiscal years 2001–02, 2002–03, and 2003–04 for the purposes of funding the provisions of this measure.

The COPS program has provided supplemental funding to counties, cities, and special police protection districts for local law enforcement services in order to enhance public safety. This bill would provide statutory authority to continue this worthy program through 2003–04. I support continuing the COPS program and providing the full funding at the $121,300,000 level allocated under the provisions of this measure.

With respect to the juvenile justice provisions in the bill, while I am supportive of programs that reduce juvenile crime and delinquency, the programmatic justification for the juvenile justice programs in the bill is insufficient to support the General Fund appropriation for this purpose. In addition, given the lack of information regarding the components of the juvenile justice programs, the benefits of these programs as currently configured are unclear. Therefore, I am deleting the $121,300,000 intended to fund the juvenile justice programs.

I would be supportive of subsequent legislation that would appropriate $71,300,000 General Fund for proven juvenile justice programs and which contains the following components: (1) provisions specifying the funding in the measure would not be for the

purpose of supplanting existing local funding, (2) provisions delineating a mechanism for the programs being funded to be measured and assessed for both expenditures and success, and (3) provisions specifying the criteria and standards for the use of the funds. Additionally, this subsequent bill should also include a $9,210,000 General Fund appropriation for the Turning Point Academy program that was inadvertently left out of the Budget Bill.

In Section 2, paragraph (b)(4) of the bill, I am deleting the following:

"(4) Fifty percent to the county or city and county to develop and implement a comprehensive multiagency plan that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders. This plan shall be developed by the local juvenile justice coordinating council in each county and city and county pursuant to Section 749.22 of the Welfare and Institutions Code and approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor.

(A) The SLESF shall only allocate funding pursuant to this paragraph upon the submission by the local juvenile justice coordinating council of a local action plan to the county board of supervisors and the Board of Corrections.

(B) The local action plan shall identify ways for improving and marshaling existing resources to reduce the incidence of juvenile crime and delinquency in priority areas and the greater community. The plan shall also maximize the provision of collaborative and integrated services and shall specify strategies for all elements of response, including, but not limited to, prevention, intervention, suppression, and incapacitation to provide a continuum for addressing the identified juvenile crime problem. The plan shall also identify strategies for addressing gang and gender specific issues. The plan shall also identify outcome measures to help determine the effectiveness of the program which shall include, but not be limited to, the following:

(1) The rate of juvenile arrests per 100,000 of population.

(2) The rate of successful completion of probation.

(3) The rate of successful completion of restitution and court-ordered community service responsibilities."

In Section 3, paragraph (a) of the bill, I am deleting the following:

", and (4)"

In Section 3, paragraph (c) of the bill, I am deleting the following:

"(3) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (4) of subdivision (b) of Section 30061."

In Section 3, paragraph (d)(1) of the bill, I am deleting the following:

", or (4)"

In Section 3, paragraph (e) of the bill, I am deleting the following:

", and juvenile justice"

In Section 4, paragraph (h) of the bill, I am deleting the following:

"(h) In addition to the report specified in subdivision (c), each local juvenile justice coordinating council shall, beginning August 15, 2002, and annually thereafter, report to the county board of supervisors and the Board of Corrections, in a format specified by the board, on the effectiveness of programs funded pursuant to this chapter. The Board of Corrections shall compile the local reports and, beginning March 1, 2004, make an annual report to the Legislature on the statewide effectiveness of the comprehensive multiagency local action plans."

GRAY DAVIS, Governor

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

SECTION 1. This act shall be known and may be cited as the Schiff-Cardenas Crime Prevention Act of 2000.

SEC. 2. Section 30061 of the Government Code is amended to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county's SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the following requirements:

(1) Five and fifteen one hundredths percent to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Five and fifteen one hundredths percent to the district attorney for criminal prosecution.

(3) Thirty-nine and seven-tenths percent to the county and the cities within the county, and, in the case of the San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance. For a newly incorporated city whose population estimate is not published by the

Department of Finance but which was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

(4) Fifty percent to the county or city and county to develop and implement a comprehensive multiagency plan that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders. This plan shall be developed by the local juvenile justice coordinating council in each county and city and county pursuant to Section 749.22 of the Welfare and Institutions Code and approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor.

(A) The SLESF shall only allocate funding pursuant to this paragraph upon the submission by the local juvenile justice coordinating council of a local action plan to the county board of supervisors and the Board of Corrections.

(B) The local action plan shall identify ways for improving and marshaling existing resources to reduce the incidence of juvenile crime and delinquency in priority areas and the greater community. The plan shall also maximize the provision of collaborative and integrated services and shall specify strategies for all elements of response, including, but not limited to, prevention, intervention, suppression, and incapacitation to provide a continuum for addressing the identified juvenile crime problem. The plan shall also identify strategies for addressing gang and gender specific issues. The plan shall also identify

outcome measures to help determine the effectiveness of the program which shall include, but not be limited to, the following:

(1) The rate of juvenile arrests per 100,000 of population.

(2) The rate of successful completion of probation.

(3) The rate of successful completion of restitution and court-ordered community service responsibilities.

(c) Subject to subdivision (d), for each fiscal year in which the county and each city, and the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide front line law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the front line law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held in September in each year that the Legislature appropriates funds for purposes of this chapter, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund front line municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund front line municipal police services, in accordance with written

requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) Funds received pursuant to subdivision (b) shall be expended in accordance with the provisions of this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(f) In the event that a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.

SEC. 3. Section 30062 of the Government Code is amended to read:

30062. (a) Except as required by paragraphs (1), (2), and (4) of subdivision (b) of Section 30061, moneys allocated from a Supplemental Law Enforcement Services Fund (SLESF) to a recipient entity shall be expended exclusively to provide front line law enforcement services. These moneys shall supplement existing services, and shall not be used to supplant any existing funding for law enforcement services provided by that entity.

(b) In the Counties of Los Angeles, Orange, and San Diego only, the district attorney may, in consultation with city attorneys in the county, determine a prorated share of the moneys received by the district attorney pursuant to this section to be allocated to city attorneys in the county in each fiscal year to fund the prosecution by those city attorneys of misdemeanor violations of state law.

(c) In no event shall any moneys allocated from the county's SLESF be expended by a recipient agency to fund any of the following:

(1) Administrative overhead costs in excess of 0.5 percent of a recipient entity's SLESF allocation for that year.

(2) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (3) of subdivision (b) of

Section 30061 that does not directly support front line law enforcement services.

(3) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (4) of subdivision (b) of Section 30061.

(d) For purposes of subdivision (c), both of the following shall apply:

(1) A ''recipient agency'' or ''recipient entity'' is that entity that actually incurs the expenditures of SLESF funds allocated pursuant to paragraph (1), (2), (3), or (4) of subdivision (b) of Section 30061.

(2) Administrative overhead costs shall only be charged by the recipient entity, as defined in paragraph (1), up to 0.5 percent of its SLESF allocation.

(e) For purposes of this chapter, ''front line law enforcement services'' and ''front line municipal police services'' each include antigang, community crime, and juvenile justice prevention programs.

SEC. 4. 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, at least 30 days prior to 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 August 15,

2001, and each year thereafter. The Controller shall make a copy of the summarized reports available to the Governor, the Legislature, and the Legislative Analyst's office.

(e) By March 1 of each year, the Legislative Analyst's office shall report to the Legislature on the types of expenditures made by local law enforcement agencies in the previous fiscal year pursuant to this chapter, and, to the extent feasible, on the effects of those expenditures on law enforcement and public safety.

(f) A county, a city, or a city and county that fails to submit the data required pursuant to subdivision (d) or fails to expend the SLESF moneys provided by the date specified in subdivision (e) of Section 30061 shall forfeit its allocation provided pursuant to Section 30061 for the subsequent fiscal year. The Controller shall reduce the affected county's allocation by the appropriate amount and shall identify the county, city, or city and county and the corresponding amount reduced for the affected local agency. Funds not allocated pursuant to this subdivision shall revert to the General Fund.

(g) Notwithstanding subdivision (f), if the Supplemental Law Enforcement Oversight Committee (SLEOC) fails to transmit the data to the Controller required pursuant to subdivision (d), the local law enforcement agency may submit its expenditure data directly to the Controller no later than 15 days after the date specified in subdivision (d). If the local law enforcement agency has complied with other requirements in this chapter, it shall be eligible for an allocation the subsequent fiscal year. However, the Controller shall reduce the SLESF allocation to the sheriff and district attorney and the cities represented in the SLEOC, and shall reduce the allocation to all the local law enforcement agencies that failed to provide the expenditure data within the 15 days. Funds not allocated pursuant to this subdivision shall revert to the General Fund.

(h) In addition to the report specified in subdivision (c), each local juvenile justice coordinating council shall, beginning August 15, 2002, and annually thereafter, report to the county board of supervisors and the Board of Corrections, in a format specified by the board, on the effectiveness of programs funded pursuant to this chapter. The Board of Corrections shall compile the local reports and, beginning March 1, 2004, make an annual report to the Legislature on the statewide effectiveness of the comprehensive multiagency local action plans.

SEC. 5. Section 30064.1 of the Government Code is amended to read:

30064.1. (a) It is the intent of the Legislature that at least two hundred forty-two million six hundred thousand dollars ($242,600,000) be appropriated each year for fiscal years 2001–02, 2002–03, and 2003–04 for the purpose of funding the provisions of this chapter.

(b) This chapter shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. The sum of two hundred forty-two million six hundred thousand dollars ($242,600,000) is hereby appropriated from the General Fund to the Controller for the 2000–01 fiscal year for allocation to counties and cities and counties for purposes of Chapter 6.7 (commencing with Section 30061) of Part 3 of Division 3 of Title 3 of the Government Code in accordance with the proportionate share of the state's total population that resides in each county and city and county, as determined on the basis of the most recent January population estimate developed by the Department of Finance. Each county or city and county share shall be deposited in the Supplemental Law Enforcement Services Fund of the county or city and county.

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 provide for the preservation and enhancement of public safety through the implementation of the provisions of this bill, as they relate to COPS funds expenditures, at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 101

An act to amend Section 18631 of the Financial Code, relating to insurance premium financing.

[Approved by Governor July 6, 2000. Filed with Secretary of State July 7, 2000.]

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

SECTION 1. Section 18631 of the Financial Code is amended to read:

18631. (a) A premium finance agreement may provide for the payment of a default charge of one dollar ($1) to a maximum of 5 percent of the delinquent installment, in the event of a default for a period of not less than 10 days in the payment of any scheduled installment under the terms of a premium finance agreement. That charge may not be collected more than once for the same default and may be collected at the time of the default or at any time thereafter. If the default charge is deducted from

any payment received after default occurs, and the deduction results in the default of a subsequent installment, no charge may be made for the resulting default.

(b) A premium finance agreement may provide for the payment of a dishonored check fee not to exceed fifteen dollars ($15) for actual expenses incurred in the processing of a dishonored check.

CHAPTER 102

An act to amend Sections 82016, 82053, 84204, and 89510 of, to add Sections 84305.6, 84511, 85314, 85315, 85316, 85317, 85318, and 85319 to, to add Article 2.5 (commencing with Section 85202) to Chapter 5 of, to repeal Sections 84201 and 85313, and Article 2 (commencing with Section 85202) of Chapter 5 of, to repeal and add Sections 83116, 83116.5, 83124, 85301, 85302, 85303, 85304, 85305, 85306, 85307, 85308, 85309, 85310, 85311, 85312, 89519, 91000, 91004, 91005.5, and 91006 of, and to repeal and add Article 1 (commencing with Section 85100), Article 4 (commencing with Section 85400), Article 5 (commencing with Section 85500), Article 6 (commencing with Section 85600), and Article 7 (commencing with Section 85700) of Chapter 5 of Title 9 of, the Government Code, relating to the Political Reform Act of 1974 and calling a special election to be consolidated with the general election of November 7, 2000, to take effect immediately, as an act calling an election.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 7, 2000.]

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

SECTION 1. (a) The people find and declare all of the following:

(1) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but large contributions may corrupt or appear to corrupt candidates for elective office.

(2) Increasing costs of political campaigns have forced many candidates to devote a substantial portion of their time to raising campaign contributions and less time to public policy.

(3) Political parties play an important role in the American political process and help insulate candidates from the potential corrupting influence of large contributions.

(b) The people enact the Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the

Political Reform Act of 1974 to accomplish all of the following purposes:

(1) To ensure that individuals and interest groups in our society have a fair and equitable opportunity to participate in the elective and governmental processes.

(2) To minimize the potentially corrupting influence and appearance of corruption caused by large contributions by providing reasonable contribution and voluntary expenditure limits.

(3) To reduce the influence of large contributors with an interest in matters before state government by prohibiting lobbyist contributions.

(4) To provide voluntary expenditure limits so that candidates and officeholders can spend a lesser proportion of their time on fundraising and a greater proportion of their time conducting public policy.

(5) To increase public information regarding campaign contributions and expenditures.

(6) To enact increased penalties to deter persons from violating the Political Reform Act of 1974.

(7) To strengthen the role of political parties in financing political campaigns by means of reasonable limits on contributions to political party committees and by limiting restrictions on contributions to, and expenditures on behalf of, party candidates, to a full, complete, and timely disclosure to the public.

SEC. 2. Section 82016 of the Government Code is amended to read:

82016. (a) ''Controlled committee'' means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.

SEC. 3. Section 82053 of the Government Code is amended to read:

82053. ''Statewide elective office'' means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization.

SEC. 4. Section 83116 of the Government Code, as added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

SEC. 5. Section 83116 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 6. Section 83116 is added to the Government Code, to read:

83116. When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

(a) Cease and desist violation of this title.

(b) File any reports, statements, or other documents or information required by this title.

(c) Pay a monetary penalty of up to five thousand dollars ($5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

SEC. 7. Section 83116.5 of the Government Code, as added by Chapter 670 of the Statutes of 1984, is repealed.

SEC. 8. Section 83116.5 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 9. Section 83116.5 is added to the Government Code, to read:

83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

SEC. 10. Section 83124 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 11. Section 83124 is added to the Government Code, to read:

83124. The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars ($100) for limitations on contributions and one thousand dollars ($1,000) for limitations on expenditures.

SEC. 12. Section 84201 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 13. Section 84204 of the Government Code is amended to read:

84204. (a) A candidate or committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A candidate or committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, that is required to be reported with a late independent expenditure report by this subdivision, is required to be reported on more than one late independent expenditure report.

(c) A candidate or committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

SEC. 14. Section 84305.6 is added to the Government Code, to read:

84305.6. In addition to the requirements of Section 84305.5, a slate mailer organization or committee primarily formed to support or oppose one or more ballot measures may not send a slate mailer unless any recommendation in the slate mailer to support or oppose a ballot measure

or to support a candidate that is different from the official recommendation to support or oppose by the political party that the mailer appears by representation or indicia to represent is accompanied, immediately below the ballot measure or candidate recommendation in the slate mailer, in no less than nine-point roman boldface type in a color or print that contrasts with the background so as to be easily legible, the following notice:

''THIS IS NOT THE OFFICIAL POSITION OF THE (political party that the mailer appears by representation or indicia to represent) PARTY.''

SEC. 15. Section 84511 is added to the Government Code, to read:

84511. Any individual who appears in an advertisement to support or oppose the qualification, passage, or defeat of a ballot measure and who has been paid or promised payment of five thousand dollars ($5,000) or more for that appearance shall disclose that payment or promised payment in a manner prescribed by the commission. The advertisement shall include the statement ''(spokesperson's name) is being paid by this campaign or its donors'' in highly visible roman font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message.

SEC. 16. Article 1 (commencing with Section 85100) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 17. Article 1 (commencing with Section 85100) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 18. Article 1 (commencing with Section 85100) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 1. Title of Chapter

85100. This chapter shall be known as the ''Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.''

SEC. 19. Article 2 (commencing with Section 85202) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 20. Article 2.5 (commencing with Section 85202) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 2.5. Applicability of the Political Reform Act of 1974

85202. Unless specifically superseded by the act that adds this section, the definitions and provisions of this title shall govern the interpretation of this chapter.

85203. ''Small contributor committee'' means any committee that meets all of the following criteria:

(a) The committee has been in existence for at least six months.

(b) The committee receives contributions from 100 or more persons.

(c) No one person has contributed to the committee more than two hundred dollars ($200) per calendar year.

(d) The committee makes contributions to five or more candidates.

85204. ''Election cycle'' for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election.

85204.5. With respect to special elections, the following terms have the following meanings:

(a) ''Special election cycle'' means the day on which the office becomes vacant until the day of the special election.

(b) ''Special runoff election cycle'' means the day after the special election until the day of the special runoff election.

85205. ''Political party committee'' means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.

85206. ''Public moneys'' has the same meaning as defined in Section 426 of the Penal Code.

SEC. 21. Section 85301 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 22. Section 85301 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 23. Section 85301 is added to the Government Code, to read:

85301. (a) A person, other than a small contributor committee or political party committee, may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office may not accept from a person, any contribution totaling more than three thousand dollars ($3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, may not make to any candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office may not accept from

a person other than a small contributor committee or a political party committee, any contribution totaling more than five thousand dollars ($5,000) per election.

(c) A person, other than a small contributor committee or political party committee, may not make to any candidate for Governor, and a candidate for governor may not accept from any person other than a small contributor committee or political party committee, any contribution totaling more than twenty thousand dollars ($20,000) per election.

(d) The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.

SEC. 24. Section 85302 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 25. Section 85302 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 26. Section 85302 is added to the Government Code, to read:

85302. (a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars ($6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars ($10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars ($20,000) per election.

SEC. 27. Section 85303 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 28. Section 85303 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 29. Section 85303 is added to the Government Code, to read:

85303. (a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five

thousand dollars ($5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars ($25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

SEC. 30. Section 85304 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 31. Section 85304 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 32. Section 85304 is added to the Government Code, to read:

85304. (a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

SEC. 33. Section 85305 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 34. Section 85305 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 35. Section 85305 is added to the Government Code, to read:

85305. A candidate for elective state office or committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

SEC. 36. Section 85306 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 37. Section 85306 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 38. Section 85306 is added to the Government Code, to read:

85306. (a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a ''last in, first out'' or ''first in, first out'' accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

SEC. 39. Section 85307 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 40. Section 85307 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 41. Section 85307 is added to the Government Code, to read:

85307. (a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) A candidate for elective state office may not personally loan to his or her campaign an amount, the outstanding balance of which exceeds

one hundred thousand dollars ($100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

SEC. 42. Section 85308 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 43. Section 85308 is added to the Government Code, to read:

85308. (a) Contributions made by a husband and wife may not be aggregated.

(b) A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

SEC. 44. Section 85309 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 45. Section 85309 is added to the Government Code, to read:

85309. (a) In addition to any other report required by this title, candidates for elective state office who are required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars ($1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other reports required by this title, any committee primarily formed to support one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars ($1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

SEC. 46. Section 85310 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 47. Section 85310 is added to the Government Code, to read:

85310. (a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars ($50,000) or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b) (1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars ($5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of the clearly identified candidate.

SEC. 48. Section 85311 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 49. Section 85311 is added to the Government Code, to read:

85311. (a) For purposes of this chapter the following terms have the following meanings:

(1) ''Entity'' means any person, other than an individual.

(2) ''Majority-owned'' means a direct or indirect ownership of more than 50 percent.

(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

SEC. 50. Section 85312 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 51. Section 85312 is added to the Government Code, to read:

85312. For purpose of this title, payments for communications for purpose of this title to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not

contributions or independent expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements.

SEC. 52. Section 85313 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 53. Section 85314 is added to the Government Code, to read:

85314. The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

SEC. 54. Section 85315 is added to the Government Code, to read:

85315. (a) Notwithstanding any other provision of this chapter, an elected state officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

SEC. 55. Section 85316 is added to the Government Code, to read:

85316. A contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

SEC. 56. Section 85317 is added to the Government Code, to read:

85317. Notwithstanding subdivision (a) of Section 85306, a candidate for state elective office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

SEC. 57. Section 85318 is added to the Government Code, to read:

85318. A candidate for state elective office may raise contributions for a general election prior to the primary election for the same elective

state office if the candidate set aside these contributions and uses these contributions for the general election. If the candidate for state elective office is defeated in the primary election or otherwise withdraws from the general election, the general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election contributions.

SEC. 58. Section 85319 is added to the Government Code, to read:

85319. A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned.

SEC. 59. Article 4 (commencing with Section 85400) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 60. Article 4 (commencing with Section 85400) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 4. Voluntary Expenditure Ceilings

85400. (a) A candidate for elective state office, other than the Board of Administration of the Public Employees' Retirement System, who voluntarily accepts expenditure limits may not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars ($400,000) in the primary or special primary election and seven hundred thousand dollars ($700,000) in the general, special, or special runoff election.

(2) For a Senate candidate, six hundred thousand dollars ($600,000) in the primary or special primary election and nine hundred thousand dollars ($900,000) in the general, special, or special runoff election.

(3) For a candidate for the State Board of Equalization, one million dollars ($1,000,000) in the primary election and one million five hundred thousand dollars ($1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars ($4,000,000) in the primary election and six million dollars ($6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars ($6,000,000) in the primary election and ten million dollars ($10,000,000) in the general election.

(b) For purposes of this section ''campaign expenditures'' has the same meaning as ''election related activities'' as defined in subparagraph (C) of paragraph (2) of subdivision (b) of Section 82015.

(c) A campaign expenditure made by a political party on behalf of a candidate may not be attributed to the limitations on campaign expenditures set forth in this section.

85401. (a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

85402. (a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to his or her own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

85403. Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

SEC. 61. Article 5 (commencing with Section 85500) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 62. Article 5 (commencing with Section 85500) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 5. Independent Expenditures

85500. (a) In addition to any other report required by this title, committees, including political party committees, which are required to file reports pursuant to Section 84605 and that make independent expenditures of one thousand dollars ($1,000) or more during an election cycle in connection with a candidate for elective state office, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. Those reports shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is

made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

85501. A controlled committee of a candidate may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures.

SEC. 63. Article 6 (commencing with Section 85600) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 64. Article 6 (commencing with Section 85600) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 6. Ballot Pamphlet

85600. The Secretary of State and local election officers shall designate in the ballot pamphlet those candidates for elective state office who have voluntarily agreed to expenditure limitations set forth in Section 85400.

85601. A candidate for elective state office who accepts voluntary expenditure limits may purchase the space to place a statement in the ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth in the Elections Code for the preparation of ballot pamphlets.

SEC. 65. Article 7 (commencing with Section 85700) of Chapter 5 of Title 9 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 66. Article 7 (commencing with Section 85700) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 7. Additional Contribution Requirements

85700. A candidate or committee shall return within 60 days any contribution of one hundred dollars ($100) or more for which the candidate or committee does not have on file in the records of the

candidate or committee the name, address, occupation, and employer of the contributor.

85701. Any candidate or committee that receives a contribution in violation of Section 84301 shall pay to the General Fund of the state the amount of the contribution.

85702. An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

85703. Nothing in this act shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with the provisions of Section 85312.

85704. A person may not make any contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.

SEC. 67. Section 89510 of the Government Code is amended to read:

89510. (a) A candidate may only accept contributions in accordance with the provision set forth in Chapter 5 (commencing with Section 85100).

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for purposes set forth in Chapter 5 (commencing with Section 85100).

SEC. 68. Section 89519 of the Government Code, as added by Chapter 84 of the Statutes of 1990, is repealed.

SEC. 69. Section 89519 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 70. Section 89519 is added to the Government Code, to read:

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

(b) Surplus campaign funds shall be used only for the following purposes:

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

(2) The repayment of contributions.

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

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

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

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

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

following the date upon which the campaign funds became surplus campaign funds. The campaign funds become surplus campaign funds upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

SEC. 71. Section 91000 of the Government Code, added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

SEC. 72. Section 91000 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 73. Section 91000 is added to the Government Code, to read:

91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars ($10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

SEC. 74. Section 91004 of the Government Code, added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

SEC. 75. Section 91004 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 76. Section 91004 is added to the Government Code, to read:

91004. Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

SEC. 77. Section 91005.5 of the Government Code, as added by Chapter 727 of the Statutes of 1982, is repealed.

SEC. 78. Section 91005.5 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 79. Section 91005.5 is added to the Government Code, to read:

91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars ($5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

SEC. 80. Section 91006 of the Government Code, added by Proposition 9 at the June 4, 1974, statewide primary election, is repealed.

SEC. 81. Section 91006 of the Government Code, as amended by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 82. Section 91006 is added to the Government Code, to read:

91006. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

SEC. 83. This act shall become operative on January 1, 2001. However, Chapter 5 (commencing with Section 85100) of Title 9 of the Government Code, except subdivision (a) of Section 85309 of the Government Code, shall apply to candidates for statewide elective office beginning on and after November 6, 2002.

SEC. 84. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 85. (a) A special election is hereby called to be held throughout the state on November 7, 2000. The election shall be consolidated with the statewide general election to be held on that date. The consolidated election shall be held and conducted in all respects as if there were only one election and only one form of ballot shall be used.

(b) Notwithstanding Section 9040 of the Elections Code or any other provision of law, the Secretary of State, pursuant to subdivision (b) of Section 81012 of the Government Code shall submit this act for approval to the voters at the November 7, 2000, statewide general election.

SEC. 86. This is an act calling an election pursuant to paragraph (3) of subdivision (c) of Section 8 of Article IV of the California Constitution, and shall take effect immediately.

CHAPTER 103

An act to amend Sections 17052.12 and 23609 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 7, 2000. Filed with
Secretary of State July 10, 2000.]

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

SECTION 1. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the ''net tax'' (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''8 percent.''

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''11 percent.''

(2) For each taxable year beginning on or after January 1, 1999, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''12 percent.''

(c) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

(d) ''Qualified research'' shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the ''net tax,'' the excess may be carried over to reduce the ''net tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of ''qualified research expense'' any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to ''Section 501(a)'' in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read ''this part or Part 11 (commencing with Section 23001).''

(g) (1) For each taxable year beginning on or after January 1, 1998, and before January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and thirty-two hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and seventy-six hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and two-tenths of one percent.''

(2) For each taxable year beginning on or after January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and forty hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and eight-seven hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and thirty-four hundredths of one percent.''

(3) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(4) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 2. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the ''net tax'' (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''8 percent.''

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''11 percent.''

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''12 percent.''

(3) For each taxable year beginning on or after January 1, 2000, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''14 percent.''

(c) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

(d) ''Qualified research'' shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the ''net tax,'' the excess may be carried over to reduce the ''net tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of ''qualified research expense'' any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to ''Section 501(a)'' in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read ''this part or Part 11 (commencing with Section 23001).''

(g) (1) For each taxable year beginning on or after January 1, 1998, and before January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and thirty-two hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and seventy-six hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and two-tenths of one percent.''

(2) For each taxable year beginning on or after January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and forty hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and eight-seven hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and thirty-four hundredths of one percent.''

(3) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(4) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 3. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each income year beginning on or after January 1, 1987, there shall be allowed as a credit against the ''tax'' (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each income year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''8 percent.''

(2) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''12 percent.''

(b) (1) For each income year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''11 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(2) For each income year beginning on or after January 1, 1999, both of the following shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''12 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of ''qualified research expense'' any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) ''Qualified research'' and ''basic research'' shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that ''basic research,'' for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a ''specialized laboratory cancer center,'' and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) ''Biopharmaceutical research activities'' means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) ''Other biotechnology research and development activities'' means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the ''tax,'' the excess may be carried over to reduce the ''tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each income year beginning on or after January 1, 1998, the reference to ''Section 501(a)'' in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read ''this part or Part 10 (commencing with Section 17001).''

(h) (1) For each income year beginning on or after January 1, 1998, and before January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and thirty-two hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and seventy-six hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and two-tenths of one percent.''

(2) For each income year beginning on or after January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and forty hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and eighty-seven hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and thirty-four hundredths of one percent.''

(3) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any income year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the income year for which made and all succeeding income years unless revoked with the consent of the Franchise Tax Board.

(4) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any income year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other income years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent income year.

SEC. 4. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each income year beginning on or after January 1, 1987, there shall be allowed as a credit against the ''tax'' (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each income year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''8 percent.''

(2) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''12 percent.''

(b) (1) For each income year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''11 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(2) For each income year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''12 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(3) For each income year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''14 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of ''qualified research expense'' any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) ''Qualified research'' and ''basic research'' shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that ''basic research,'' for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841

to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a ''specialized laboratory cancer center,'' and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) ''Biopharmaceutical research activities'' means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) ''Other biotechnology research and development activities'' means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the ''tax,'' the excess may be carried over to reduce the ''tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each income year beginning on or after January 1, 1998, the reference to ''Section 501(a)'' in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read ''this part or Part 10 (commencing with Section 17001).''

(h) (1) For each income year beginning on or after January 1, 1998, and before January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and thirty-two hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and seventy-six hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and two-tenths of one percent.''

(2) For each income year beginning on or after January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and forty hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and eighty-seven hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and thirty-four hundredths of one percent.''

(3) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any income year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the income year for which made and all succeeding income years unless revoked with the consent of the Franchise Tax Board.

(4) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any income year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other income years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent income year.

SEC. 5. Sections 2 and 4 of this bill incorporate amendments to Sections 17052.12 and 23609 of the Revenue and Taxation Code proposed by both this bill and SB 1655. Sections 2 and 4 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Sections 17052.12 and 23609 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1655, in which case Sections 1 and 3 of this bill shall not become operative.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 104

An act to amend Sections 17276 and 24416 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, and 17276.6, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss which exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as specified in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term ''net loss'' means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Net operating loss carrybacks shall not be allowed.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''five taxable years'' in lieu of ''20 taxable years,'' except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''10 taxable years'' in lieu of ''20 taxable years.''

(2) For any taxable year beginning before January 1, 2000, in the case of a ''new business,'' the ''five taxable years'' in paragraph (1) shall be modified to read as follows:

(A) ''Eight taxable years'' for a net operating loss attributable to the first taxable year of that new business.

(B) ''Seven taxable years'' for a net operating loss attributable to the second taxable year of that new business.

(C) ''Six taxable years'' for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) ''Eligible small business'' means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), ''new business'' means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) ''Title 11 or similar case'' shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (''prior trade or business activity''), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) ''Related person'' shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) ''Acquire'' shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term ''new business'' shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) ''Biopharmaceutical activities'' means those activities which use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities which make use of chemical compounds to produce commercial products.

(ii) ''Other biotechnology activities'' means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section, a deduction shall be allowed to a ''qualified taxpayer'' as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, and 17276.6.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by the act adding this subdivision shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 2. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Section 24416.1, 24416.2, 24416.4, 24416.5, or 24416.6, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to income years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any income year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any income year shall be eligible for carryover to any subsequent income year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any income year beginning before January 1, 2000.

(B) Fifty-five percent for any income year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any income year beginning on or after January 1, 2002.

(2) In the case of a taxpayer who has a net operating loss in any income year beginning on or after January 1, 1994, and who operates a new business during that income year, each of the following shall apply to each loss incurred during the first three income years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any income year beginning on or after January 1, 1994, and who operates an eligible small business during that income year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the income years specified in subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as specified in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three income years of the new business.

(5) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of

subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, ''net loss'' means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any income year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

(e) (1) (A) For a net operating loss for any income year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''five income years'' in lieu of ''20 taxable years,'' except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''10 income years'' in lieu of ''20 taxable years.''

(2) For any income year beginning before January 1, 2000, in the case of a ''new business,'' the ''five income years'' referred to in paragraph (1) shall be modified to read as follows:

(A) ''Eight income years'' for a net operating loss attributable to the first income year of that new business.

(B) ''Seven income years'' for a net operating loss attributable to the second income year of that new business.

(C) ''Six income years'' for a net operating loss attributable to the third income year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to income years beginning in 1991.

(B) By two years for a net operating loss attributable to income years beginning prior to January 1, 1991.

(4) The net operating loss attributable to income years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 income years following the

year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the income year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) ''Eligible small business'' means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), ''new business'' means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) ''Title 11 or similar case'' shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first income year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade

or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (''prior trade or business activity''), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) ''Related person'' shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) ''Acquire'' shall include any transfer, whether or not for consideration.

(7) (A) For income years beginning on or after January 1, 1997, the term ''new business'' shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) ''Biopharmaceutical activities'' means those activities which use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide

pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities which make use of chemical compounds to produce commercial products.

(ii) ''Other biotechnology activities'' means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carry forward which may be deducted in any income year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(*l*) Except as otherwise provided, the amendments made by the act adding this subdivision shall apply to net operating losses for income years beginning on or after January 1, 2000.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 105

An act to add and repeal Section 17053.80 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 7, 2000. Filed with
Secretary of State July 10, 2000.]

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

SECTION 1. Section 17053.80 is added to the Revenue and Taxation Code, to read:

17053.80. (a) For each taxable year beginning on or after January 1, 2000, and before January 1, 2005, there shall be allowed as a credit against the ''net tax,'' as defined in Section 17039, an amount equal to five hundred dollars ($500) multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

(b) (1) (A) ''Applicable individual'' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in Section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period--

(i) which is at least 180 consecutive days, and

(ii) a portion of which occurs within the taxable year.

That term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the $39^1/_2$ month period ending on that due date (or such other period as the Franchise Tax Board prescribes) a physician (as so defined) has certified that that individual meets those requirements.

(B) An individual is described in this subparagraph if the individual meets any of the following requirements:

(i) The individual is at least six years of age and--

(I) is unable to perform (without substantial assistance from another individual) at least three activities of daily living, as defined in Section 7702B(c)(2)(B) of the Internal Revenue Code, due to a loss of functional capacity, or

(II) requires substantial supervision to protect that individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least one activity of daily living, as defined in Section 7702B(c)(2)(B) of the Internal Revenue Code, or to the extent provided by the Franchise Tax Board (in consultation with the Secretary of Health and Welfare Agency), is unable to engage in age appropriate activities.

(ii) The individual is at least two years of age but less than six years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least two of the following activities: eating, transferring, or mobility.

(iii) The individual is under two years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's

condition to be available if the individual's parents or guardians are absent.

(2) (A) A taxpayer shall be treated as an ''eligible caregiver'' for any taxable year with respect to the following individuals:

(i) The taxpayer.

(ii) The taxpayer's spouse.

(iii) An individual with respect to whom the taxpayer is allowed a credit under subdivision (d) of Section 17054 for the taxable year.

(iv) An individual who would be described in clause (iii) for the taxable year if Section 151(c)(1)(A) of the Internal Revenue Code, relating to gross income limitation, were applied by substituting for the federal exemption amount specified in that section, an amount equal to the sum of the federal exemption amount specified in that section, the federal standard deduction under Section 63(c)(2)(C) of the Internal Revenue Code, and any additional federal standard deduction under Section 63(c)(3) of the Internal Revenue Code which would be applicable to the individual if clause (iii) applied.

(v) An individual who would be described in clause (iii) for the taxable year if--

(I) the requirements of clause (iv) are met with respect to the individual, and

(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of Section 152(a) of the Internal Revenue Code.

(B) The requirements of this subparagraph are met if an individual has as his or her principal place of abode the home of the taxpayer, and

(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

(C) (i) If more than one individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each of those individuals (other than the taxpayer) files a written declaration (in the form and manner as the Franchise Tax Board may prescribe) that that individual will not claim that applicable individual for the credit under this section.

(ii) If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest federal modified adjusted gross income (as defined in Section 32(c)(5) of the Internal Revenue Code for federal purposes) shall be treated as the eligible caregiver.

(iii) In the case of married individuals filing separate returns, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

(c) (1) No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of that individual, and the identification number of the physician certifying that individual, on the return of tax for the taxable year.

(2) The denial of any credit under subparagraph (1) may be made pursuant to Section 19051.

(d) The taxpayer shall retain the physician certification required by subdivision (b) and shall make that certification available to the Franchise Tax Board upon request.

(e) No credit shall be allowed under this section for any eligible caregiver whose adjusted gross income for the taxable year is equal to or greater than one hundred thousand dollars ($100,000) in the case of a married couple filing a joint return, and fifty thousand dollars ($50,000) in the case of all other individuals.

(f) This section shall remain in effect only until December 1, 2005, and as of that date is repealed.

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 106

An act to add Section 10754.2 to the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 1999.]

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

SECTION 1. Section 10754.2 is added to the Revenue and Taxation Code, to read:

10754.2. Notwithstanding any other provision of law to the contrary, all of the following apply:

(a) (1) For each vehicle license fee for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration, with a final due date in 2001 or 2002, for which

the vehicle license fee offset required by Section 10754 is less than $67^1/_2$ percent, the Department of Motor Vehicles shall concurrently calculate an offset, in addition to the offset required by Section 10754, that is equal to the difference between the following:

(A) A vehicle license fee offset of $67^1/_2$ percent.

(B) A vehicle license fee offset of the greater of 35 percent or that percentage required by Section 10754.

(2) The Department of Motor Vehicles shall, for each calendar month, report to the Department of Finance and the Controller the amount of each offset calculated pursuant to paragraph (1) for that calendar month and the name and address of the taxpayer to whom that additional offset applies. The Controller shall, within 30 days after receiving a monthly report from the Department of Motor Vehicles, make payment of the reported additional offsets to the identified taxpayers.

(3) (A) For each vehicle license fee, for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration, with a final due date in 2001 or 2002, there shall be a vehicle license fee offset of not less than 35 percent.

(B) For each vehicle license fee, for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration with a final due date in 2003 or any calendar year thereafter, there shall be a $67^1/_2$ percent offset that is administered as provided in Section 10754 as that section read on January 1, 2000.

(b) Revenue losses to cities, counties, and cities and counties resulting from this section shall be reimbursed by the Controller from the General Fund in the same manner as provided in Section 11000. The amounts of General Fund transfers required by this subdivision are deemed to be vehicle license fee proceeds and vehicle license fee revenues for those same purposes as set forth in subdivision (d) of Section 11000, are subject to the same pledges, liens, encumbrances, and priorities as described in that subdivision.

CHAPTER 107

An act to amend Sections 10754.2, 17052.12, 17151, 17276, 23609, and 24416 of, to add Section 10903 to, and to add and repeal Sections 6378.1 and 17053.80 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor July 7, 2000. Filed with
Secretary of State July 10, 2000.]

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

SECTION 1. Section 6378.1 is added to the Revenue and Taxation Code, to read:

6378.1. (a) On and after January 1, 2001, and before January 1, 2006, 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, tangible personal property purchased by eligible entities, as defined in subdivision (f).

(b) The exemption provided under this part shall be termed the Rural Investment Tax exemption.

(c) The California Infrastructure and Economic Development Bank (CIEDB) board shall develop a program that determines who is eligible to receive this exemption, monitor entities for compliance with the requirements of this section, and notify the State Board of Equalization, as provided in this section. The CIEDB shall determine the amount of the exemption available to each entity.

(d) Entities wishing to qualify for this exemption shall apply to the CIEDB board in a manner prescribed by the CIEDB board. The CIEDB board shall provide all applicants written notification stating the eligibility of the applicant to receive an exemption under this section.

(e) The annual amount of exemptions that may be granted pursuant to this section shall not exceed five million dollars ($5,000,000) per year. The CIEDB board shall not authorize any exemption that would cause the total amount of exemptions authorized with respect to any calendar year under this section to exceed five million dollars ($5,000,000).

(f) For purposes of this section:

(1) ''Eligible entity'' means an entity that complies with all of the following:

(A) The entity shall locate or expand a business in a California county with an average annual unemployment rate of five percentage points or more above the statewide average for the most recent calendar year as determined by the State of California, Employment Development Department.

(B) The entity shall make a new investment of at least one hundred fifty million dollars ($150,000,000) in the county in which the entity locates its business and shall maintain this level of investment for a period of at least 24 months after the CIEDB board certifies that the entity has become an eligible entity.

(C) The entity shall employ at least 500 new full-time equivalent employees in the county, including employees who are employed directly by the entity and employees who are hired by supporting industries. Employees shall be employed for at least 24 months after the CIEDB certifies that the entity has become eligible. At least 175 of the

new full-time equivalent employees shall be directly employed by the entity.

(2) ''New full-time equivalent employees'' means employees hired by the entity seeking the exemption allowed under this part and not employees moved, transferred, or displaced from other places of business of the entity within this state.

(3) ''Tangible personal property'' means machinery and equipment, including component parts.

(4) ''Tangible personal property'' does not include any of the following:

(A) Tangible personal property that is used primarily in administration, general management, or marketing.

(B) Furniture, inventory, or equipment used to store products.

(C) Any property for which a credit is claimed under either Section 17053.49 or 23649 of the Revenue and Taxation Code.

(g) Prior to claiming an exemption under this section, the eligible entity shall apply to the State Board of Equalization for an exemption certificate and shall include a copy of the written notification from the CIEDB board stating that the entity applying for the exemption certificate is eligible to receive an exemption under this section. No exemption shall be allowed under this section unless the eligible entity furnishes the retailer with an exemption certificate, completed in accordance with any instruction or regulations as the State Board of Equalization may prescribe, and the retailer subsequently furnishes the board with a copy of the exemption certificate. The exemption certificate shall contain the sales price of the machinery and equipment that is exempt pursuant to subdivision (a).

(h) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of these laws.

(2) The exemption established by this section shall not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(3) The exemption established by this section shall not apply to any sale or use of property that, within one year from the date of purchase, is either removed from a California county as described in subparagraph (A) of paragraph (1) of subdivision (f), or converted from an exempt use under subdivision (a) to some other use not qualifying for the exemption.

(i) (1) If a purchaser certifies in writing to the seller that the property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the

sales tax, and within one year from the date of purchase, the purchaser (1) removes that property outside a California county as described in subparagraph (A) of paragraph (1) of subdivision (f), or (2) converts that property for use in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the property at the time the property is so removed, converted, or used, and the sales price of the property to the purchaser shall be deemed the gross receipts from that retail sale.

(2) The purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the property if the purchaser does not achieve the level and duration of employment and investment pursuant to subdivision (f) within three years from the date the entity first uses an exemption under this section. The CIEDB board may extend this time period by a maximum of 12 months for reasonable cause.

(j) (1) The CIEDB board shall determine if entities have fulfilled the requirements necessary in order to keep this exemption and shall report to the State Board of Equalization on entities that have not fulfilled these requirements.

(2) Notwithstanding Section 6902, the State Board of Equalization shall, within one year after being notified by the CIEDB board that an entity has not fulfilled the requirements of this section, examine the books and records of the entity, and issue a determination of any liabilities due.

(k) The CIEDB board shall provide a report to the Legislature, the Department of Finance, and the State Board of Equalization no later than January 15 following each fiscal year the program is in operation. The report shall include, at a minimum, all of the following:

(1) The entities that have been provided the exemption established by this section and the amount of the exemption authorized by the CIEDB board to each entity.

(2) The number of new persons employed by each entity.

(3) The amount of investment made by each entity.

(4) A description of the economic development provided by each entity receiving the exemption.

(5) A description of each entity that has fulfilled the requirements of paragraph (1) of subdivision (f).

(6) A description of each entity that has not fulfilled the requirements of paragraph (1) of subdivision (f).

(*l*) (1) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

(2) This section shall remain in effect only until January 1, 2006, and as of that date is repealed.

SEC. 2. Section 10754.2 of the Revenue and Taxation Code, as added by AB 858 of the 1999–2000 Regular Session, is amended to read:

10754.2. Notwithstanding any other provision of law to the contrary, all of the following apply to vehicle license fees with a final due date on or after January 1, 2001:

(a) (1) For each vehicle license fee for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration, with a final due date in 2001 or 2002, for which the vehicle license fee offset required by Section 10754 is less than 67 $^{1}/_{2}$ percent, the Department of Motor Vehicles shall concurrently calculate an offset, in addition to the offset required by Section 10754, that is equal to the difference between the following:

(A) A vehicle license fee offset of 67 $^{1}/_{2}$ percent.

(B) A vehicle license fee offset of the greater of 35 percent or that percentage required by Section 10754.

(2) The Department of Motor Vehicles shall, for each calendar month, report to the Department of Finance and the Controller the amount of each offset calculated pursuant to paragraph (1) for that calendar month and the name and address of the taxpayer to whom that additional offset applies. The Controller shall, within 30 days after receiving a monthly report from the Department of Motor Vehicles, make payment of the reported additional offsets to the identified taxpayers. The Governor may direct the Controller to include, with each payment pursuant to this paragraph of an additional vehicle license fee offset, a notice stating that the additional vehicle license fee offsets required by this paragraph constitute a Prosperity Dividend approved by the Legislature and signed by Governor Davis.

(3) (A) For each vehicle license fee, for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration, with a final due date in 2001 or 2002, the vehicle license fee offset implemented pursuant to Section 10754 shall be not less than 35 percent.

(B) For each vehicle license fee, for the initial or original registration of any vehicle, never before registered in this state, or for any renewal of registration with a final due date in 2003 or any calendar year thereafter, there shall be a 67$^{1}/_{2}$ percent offset as described in paragraph (5) of subdivision (a) of Section 10754, as that section read on January 1, 2000. In no event may the 67$^{1}/_{2}$ percent offset established by this subparagraph be reduced pursuant to paragraph (4) of subdivision (c) of Section 10754, or any successor to that paragraph.

(b) (1) The additional vehicle license fee offsets established by subdivision (a) shall be funded from those amounts to be appropriated by statute.

(2) Revenue losses to cities, counties, and cities and counties resulting from this section shall be reimbursed by the Controller from the General Fund in the same manner as provided in Section 11000. The amounts of General Fund transfers required by this subdivision are deemed to be vehicle license fee proceeds and vehicle license fee revenues for those same purposes as set forth in subdivision (d) of Section 11000, and are subject to the same pledges, liens, encumbrances, and priorities as described in that subdivision.

SEC. 3. Section 10903 is added to the Revenue and Taxation Code, to read:

10903. (a) Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund the sum of two billion fifty-two million dollars ($2,052,000,000) for transfer by the Controller, upon notification by the Director of Finance during the 2000–01 fiscal year, to the Special Reserve Fund for Vehicle License Fee Tax Relief, which is hereby created as a special fund. The amounts appropriated by this subdivision for transfer to the Special Reserve Fund for Vehicle License Fee Tax Relief shall be expended exclusively for the payment of additional vehicle license fee offsets calculated under Section 10754.2, and are allocated for that purpose as follows:

(1) Eight hundred and eighty-seven million dollars ($887,000,000) for the payment of additional vehicle license fee offsets for the 2000–01 fiscal year.

(2) One billion one hundred sixty five million dollars ($1,165,000,000) for the payment of additional vehicle license fee offsets for the 2001–02 fiscal year.

(b) The Department of Motor Vehicles shall provide both of the following notices to the Controller in connection with each monthly report pursuant to Section 10754.2 of additional vehicle license fee offsets calculated by that department pursuant to that section:

(1) A notice for each month of the total dollar amount of the additional vehicle license fee offsets calculated by the department during that month pursuant to Section 10754.2.

(2) A notice of the total dollar amount of the additional vehicle license fee offsets calculated by the department pursuant to Section 10754.2 for the calendar year to the date of each monthly report provided pursuant to Section 10754.2.

SEC. 4. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the ‘‘net tax’’ (as defined

by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''8 percent.''

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''11 percent.''

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''12 percent.''

(3) For each taxable year beginning on or after January 1, 2000, the reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''15 percent.''

(c) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

(d) ''Qualified research'' shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the ''net tax,'' the excess may be carried over to reduce the ''net tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of ''qualified research expense'' any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to ''Section 501(a)'' in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read ''this part or Part 11 (commencing with Section 23001).''

(g) (1) For each taxable year beginning on or after January 1, 1998, and before January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and thirty-two hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and seventy-six hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and two-tenths of one percent.''

(2) For each taxable year beginning on or after January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and forty-nine hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and ninety-eight hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and forty-eight hundredths of one percent.''

(3) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(4) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 5. Section 17053.80 is added to the Revenue and Taxation Code, to read:

17053.80. (a) For each taxable year beginning on or after January 1, 2000, and before January 1, 2005, there shall be allowed as a credit against the ''net tax,'' as defined in Section 17039, an amount equal to five hundred dollars ($500) multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

(b) (1) (A) ''Applicable individual'' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by

a physician (as defined in Section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period--

(i) which is at least 180 consecutive days, and

(ii) a portion of which occurs within the taxable year.

That term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the $39^{1}/_{2}$ month period ending on that due date (or such other period as the Franchise Tax Board prescribes) a physician (as so defined) has certified that that individual meets those requirements.

(B) An individual is described in this subparagraph if the individual meets any of the following requirements:

(i) The individual is at least six years of age and--

(I) is unable to perform (without substantial assistance from another individual) at least three activities of daily living, as defined in Section 7702B(c)(2)(B) of the Internal Revenue Code, due to a loss of functional capacity, or

(II) requires substantial supervision to protect that individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least one activity of daily living, as defined in Section 7702B(c)(2)(B) of the Internal Revenue Code, or to the extent provided by the Franchise Tax Board (in consultation with the Secretary of Health and Welfare Agency), is unable to engage in age appropriate activities.

(ii) The individual is at least two years of age but less than six years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least two of the following activities: eating, transferring, or mobility.

(iii) The individual is under two years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

(2) (A) A taxpayer shall be treated as an ''eligible caregiver'' for any taxable year with respect to the following individuals:

(i) The taxpayer.

(ii) The taxpayer's spouse.

(iii) An individual with respect to whom the taxpayer is allowed a credit under subdivision (d) of Section 17054 for the taxable year.

(iv) An individual who would be described in clause (iii) for the taxable year if Section 151(c)(1)(A) of the Internal Revenue Code, relating to gross income limitation, were applied by substituting for the federal exemption amount specified in that section, an amount equal to the sum of the federal exemption amount specified in that section, the

federal standard deduction under Section 63(c)(2)(C) of the Internal Revenue Code, and any additional federal standard deduction under Section 63(c)(3) of the Internal Revenue Code which would be applicable to the individual if clause (iii) applied.

(v) An individual who would be described in clause (iii) for the taxable year if--

(I) the requirements of clause (iv) are met with respect to the individual, and

(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of Section 152(a) of the Internal Revenue Code.

(B) The requirements of this subparagraph are met if an individual has as his or her principal place of abode the home of the taxpayer, and

(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

(C) (i) If more than one individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each of those individuals (other than the taxpayer) files a written declaration (in the form and manner as the Franchise Tax Board may prescribe) that that individual will not claim that applicable individual for the credit under this section.

(ii) If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest federal modified adjusted gross income (as defined in Section 32(c)(5) of the Internal Revenue Code for federal purposes) shall be treated as the eligible caregiver.

(iii) In the case of married individuals filing separate returns, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

(c) (1) No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of that individual, and the identification number of the physician certifying that individual, on the return of tax for the taxable year.

(2) The denial of any credit under paragraph (1) may be made pursuant to Section 19051.

(d) The taxpayer shall retain the physician certification required by subdivision (b) and shall make that certification available to the Franchise Tax Board upon request.

(e) No credit shall be allowed under this section for any eligible caregiver whose adjusted gross income for the taxable year is equal to or greater than one hundred thousand dollars ($100,000).

(f) This section shall remain in effect only until December 1, 2005, and as of that date is repealed.

SEC. 6. Section 17151 of the Revenue and Taxation Code is amended to read:

17151. (a) Gross income of an employee does not include any amounts, not exceeding an aggregate amount of five thousand two hundred fifty dollars ($5,250) per calendar year, that is paid or incurred by the employer for educational assistance to the employee pursuant to an educational assistance program.

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

(1) ''Educational assistance'' means the payment by an employer of expenses incurred by or on behalf of an employee for the employee's education, and includes, but is not limited to, payments for books, supplies, equipment, tuition, and fees, and similar payments. ''Educational assistance'' includes the provision by an employer of courses of instruction for an employee, including the provision of books, supplies, and equipment. ''Educational assistance'' does not include any payment for, or the provision of, any of the following:

(A) Any tools or supplies that may be retained by the employee after completion of a course of instruction.

(B) Any meals, lodging, or transportation.

(C) Any course or education involving sports, games, or hobbies.

(D) Any course or education taken at the graduate level of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree. This subparagraph applies only to any course or education taken at the graduate level beginning after June 30, 1996, and before January 1, 2000.

(2) ''Educational assistance program'' means a separate written plan of an employer for the exclusive benefit of his or her employees to provide those employees with educational assistance. The program shall meet the following requirements:

(A) The program benefits employees who qualify under a classification established by the employer and found by the Franchise Tax Board not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of Section 414(q) of the Internal Revenue Code) or their dependents. For purposes of this subparagraph, there shall be excluded from consideration employees

who are not included in the program and who are included in a unit of employees covered by an agreement that the Franchise Tax Board finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between the employee representatives and the employer or employers.

(B) Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are owners (or their spouses or dependents), each of whom, on any day of the year, owns more than 5 percent of the capital or profits interest in the employer.

(C) The program does not provide eligible employees with a choice between educational assistance and other remuneration includable in gross income. For purposes of this section, the business practices of the employer, as well as the written program, shall be taken into account.

(D) The program need not be funded.

(E) Reasonable notification of the availability and terms of the program is provided to eligible employees.

(3) ''Employee'' includes self-employed individuals within the meaning of Section 401(c)(1) of the Internal Revenue Code.

(c) For purposes of this section:

(1) Any individual who owns the entire interest in an unincorporated trade or business shall be treated as his or her own employee.

(2) A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (3) of subdivision (b).

(3) (A) An educational assistance program shall not be considered to fail to meet any of the requirements of paragraph (2) of subdivision (b) on the sole basis of either of the following:

(i) Different utilization rates for the different types of educational assistance made available under the program.

(ii) Successful completion or attainment of a particular course grade is required for or considered in determining reimbursement under the program.

(B) This section shall not be construed to affect the deduction or inclusion in income of amounts that are paid or incurred or received as reimbursement for educational expenses under Section 117, 162, or 212 of the Internal Revenue Code.

(d) No deduction or credit shall be allowed to the employee with respect to any amount that the employee excludes from income pursuant to this section.

(e) Section 127 of the Internal Revenue Code shall not apply.

(f) This section shall apply with respect to expenses relating to courses beginning after June 30, 1996.

SEC. 7. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, and 17276.6, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) Sixty-five percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss which exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term ''net loss'' means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Net operating loss carrybacks shall not be allowed.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''five taxable years'' in lieu of '' 20 taxable years'' except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''10 taxable years'' in lieu of ''20 taxable years.''

(2) For any taxable year beginning before January 1, 2000, in the case of a ''new business,'' the ''five taxable years'' in paragraph (1) shall be modified to read as follows:

(A) ''Eight taxable years'' for a net operating loss attributable to the first taxable year of that new business.

(B) ''Seven taxable years'' for a net operating loss attributable to the second taxable year of that new business.

(C) ''Six taxable years'' for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) ''Eligible small business'' means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), ''new business'' means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) ''Title 11 or similar case'' shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (''prior trade or business activity''), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as

having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) ''Related person'' shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) ''Acquire'' shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term ''new business'' shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) ''Biopharmaceutical activities'' means those activities which use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities which make use of chemical compounds to produce commercial products.

(ii) ''Other biotechnology activities'' means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section, a deduction shall be allowed to a ''qualified taxpayer'' as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, and 17276.6.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b)

upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by the act adding this subdivision shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 8. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each income year beginning on or after January 1, 1987, there shall be allowed as a credit against the ''tax'' (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each income year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''8 percent.''

(2) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''12 percent.''

(b) (1) For each income year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''11 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(2) For each income year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''12 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(3) For each income year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to ''20 percent'' in Section 41(a)(1) of the Internal Revenue Code is modified to read ''15 percent.''

(B) The reference to ''20 percent'' in Section 41(a)(2) of the Internal Revenue Code is modified to read ''24 percent.''

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of ''qualified research expense'' any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) ''Qualified research'' and ''basic research'' shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that ''basic research,'' for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a ''specialized laboratory cancer center,'' and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) ''Biopharmaceutical research activities'' means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) ''Other biotechnology research and development activities'' means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical

delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the ''tax,'' the excess may be carried over to reduce the ''tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each income year beginning on or after January 1, 1998, the reference to ''Section 501(a)'' in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read ''this part or Part 10 (commencing with Section 17001).''

(h) (1) For each income year beginning on or after January 1, 1998, and before January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and thirty-two hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and seventy-six hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and two-tenths of one percent.''

(2) For each income year beginning on or after January 1, 2000:

(A) The reference to ''1.65 percent'' in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read ''one and forty-nine hundredths of one percent.''

(B) The reference to ''2.2 percent'' in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read ''one and ninety-eight hundredths of one percent.''

(C) The reference to ''2.75 percent'' in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read ''two and forty-eight hundredths of one percent.''

(3) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any income year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the income year for which made and all succeeding income years unless revoked with the consent of the Franchise Tax Board.

(4) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any income year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other income years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent income year.

SEC. 9. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Section 24416.1, 24416.2, 24416.4, 24416.5, or 24416.6, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to income years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any income year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any income year shall be eligible for carryover to any subsequent income year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any income year beginning before January 1, 2000.

(B) Fifty-five percent for any income year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any income year beginning on or after January 1, 2002, and before January 1, 2004.

(D) Sixty-five percent for any income year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any income year beginning on or after January 1, 1994, and who operates a new business during that income year, each of the following shall apply to each loss incurred during the first three income years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any income year beginning on or after January 1, 1994, and who operates an eligible small business during that income year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the income years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three income years of the new business.

(5) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the

remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, ''net loss'' means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any income year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

(e) (1) (A) For a net operating loss for any income year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''five income years'' in lieu of ''20 years'' except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute ''10 income years'' in lieu of ''20 income years.''

(2) For any income year beginning before January 1, 2000, in the case of a ''new business,'' the ''five income years'' referred to in paragraph (1) shall be modified to read as follows:

(A) ''Eight income years'' for a net operating loss attributable to the first income year of that new business.

(B) ''Seven income years'' for a net operating loss attributable to the second income year of that new business.

(C) ''Six income years'' for a net operating loss attributable to the third income year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to income years beginning in 1991.

(B) By two years for a net operating loss attributable to income years beginning prior to January 1, 1991.

(4) The net operating loss attributable to income years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 income years following the

year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the income year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) ''Eligible small business'' means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), ''new business'' means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) ''Title 11 or similar case'' shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first income year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade

or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (''prior trade or business activity''), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) ''Related person'' shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) ''Acquire'' shall include any transfer, whether or not for consideration.

(7) (A) For income years beginning on or after January 1, 1997, the term ''new business'' shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) ''Biopharmaceutical activities'' means those activities which use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide

pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities which make use of chemical compounds to produce commercial products.

(ii) ''Other biotechnology activities'' means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carry forward which may be deducted in any income year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(*l*) Except as otherwise provided, the amendments made by the act adding this subdivision shall apply to net operating losses for income years beginning on or after January 1, 2000.

SEC. 10. The amendments made by this act to Section 10754.2 of the Revenue and Taxation Code, and the addition by this act of Section 10903 to the Revenue and Taxation Code, shall become operative only if AB 858 of the 1999–2000 Regular Session is enacted, in which case the amendments made by this act to Section 10754.2 of the Revenue and Taxation Code, and the addition by this act of Section 10903 to the Revenue and Taxation Code, shall become operative on the effective date of this act.

SEC. 11. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 108

An act to add Section 69541 to the Education Code, to add Section 17703 to the Family Code, to amend Sections 1091.2 and 11019 of, and to add Section 11753.1 to, the Government Code, to amend Sections 1588, 1588.3, 1588.5, 1588.7, 1596.8713, 11758.46, 11840.1, and 11970.2 of, to amend, renumber, and add Section 1589 of, and to add Sections 11756.8 and 11871 to, the Health and Safety Code, to amend Section 1611.5 of, to add Sections 9617 and 10201.5 to, to add Article 2.5 (commencing with Section 10529) to Chapter 4.5 of, and to add Chapter 7 (commencing with Section 11020) to, Part 1 of Division 3 of, the Unemployment Insurance Code, and to amend Sections 366.21, 366.22, 366.3, 903.7, 9305, 10544.1, 10609.3, 11265.2, 11363, 11367, 11372, 11461, 11462, 11463, 12301.6, 13002, 15200.05, 15204.3, 18930, 18938, 19352, 19356, and 19806 of, to add Sections 9113, 10609.6, 11374, 11375, 11465.6, 11467.2, 12306.2, 12306.3, 14021.35, 16001.7, 18918, and 19356.65 to, to add and repeal Article 3.5 (commencing with Section 18959) of Chapter 11 of Part 6 of Division 9 of, and to repeal and add Section 12306.1 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 69541 is added to the Education Code, to read:

69541. (a) The Student Aid Commission, to the extent funds are appropriated for the purposes of this section in the annual Budget Act, shall provide a supplemental grant equal to two thousand eight hundred dollars ($2,800) to recipients of Cal Grant awards who fulfill the following requirements:

(1) The person has been declared a dependent or ward of the court pursuant to Section 300 or Section 602 of the Welfare and Institutions Code.

(2) The person, within the 60-day period immediately prior to his or her 18th birthday, had a permanent plan of long-term foster care or guardianship.

(3) The person received aid pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

(b) The State Department of Social Services shall enter into an interagency agreement with the Student Aid Commission to allocate funds to the commission appropriated in the Budget Act for the purposes of this section.

SEC. 2. Section 17703 is added to the Family Code, to read:

17703. (a) A revolving fund in the State Treasury is hereby created to be known as the Child Support Services Advance Fund. All moneys deposited into the fund are for the purpose of making a consolidated payment or advance to counties, state agencies, or other governmental entities, comprised of the state and federal share of costs associated with the programs administered by the Department of Child Support Services, inclusive of the payment of refunds. In addition, the fund may be used for the purpose of making a consolidated payment to any payee, comprised of the state and federal shares of local assistance costs associated with the programs administered by the Department of Child Support Services.

(b) Payments or advances of funds to counties, state agencies, or other governmental agencies and other payees doing business with the state that are properly chargeable to appropriations or other funds in the State Treasury, may be made by a Controller's warrant drawn against the Child Support Services Advance Fund. For every warrant so issued, a remittance advice shall be issued by the Department of Child Support Services to identify the purposes and amounts for which it was drawn.

(c) The amounts to be transferred to the Child Support Services Advance Fund at any time shall be determined by the department, and, upon order of the Controller, shall be transferred from the funds and appropriations otherwise properly chargeable.

(d) Refunds of amounts disbursed from the Child Support Services Advance Fund shall, on order of the Controller, be deposited in the Child Support Services Advance Fund, and, on order of the Controller, shall be transferred therefrom to the funds and appropriations from which those amounts were originally derived. Claims for amounts erroneously deposited into the Child Support Services Advance Fund shall be submitted by the department to the Controller who, if he or she approves the claims, shall draw a warrant in payment thereof against the Child Support Services Advance Fund.

(e) All amounts increasing the cash balance in the Child Support Services Advance Fund, that were derived from the cancellation of warrants issued therefrom, shall, on order of the Controller, be transferred to the appropriations from which the amounts were originally derived.

SEC. 3. Section 1091.2 of the Government Code is amended to read:

1091.2. Section 1090 shall not apply to any contract or grant made by local workforce investment boards created pursuant to the federal Workforce Investment Act of 1998 except where both of the following conditions are met:

(a) The contract or grant directly relates to services to be provided by any member of a local workforce investment board or the entity the member represents or financially benefits the member or the entity he or she represents.

(b) The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant or grants.

SEC. 4. Section 11019 of the Government Code is amended to read:

11019. (a) Any department or authority specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when the advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of four hundred thousand dollars ($400,000) or less. This amount shall be increased by 5 percent, as determined by the Department of Finance, for each year commencing with 1989. Advance payments may also be made with respect to any contract which the Department of Finance determines has been entered into with any community-based private nonprofit agency with modest reserves and potential cash-flow problems. No advance payment shall be granted if the total annual contract exceeds four hundred thousand dollars ($400,000), without the prior approval of the Department of Finance.

The specific departments and authority mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each plan shall include a procedure whereby the department or authority determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each plan is required to be approved by the Department of Finance.

(b) Subdivision (a) shall apply to the Emergency Medical Service Authority, the California Department of Aging, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Department of Corrections, the Department of Economic Opportunity, the Employment Development Department, the State

Department of Health Services, the State Department of Mental Health, the Department of Rehabilitation, the State Department of Social Services, the Department of Child Support Services, the Department of the Youth Authority, the State Department of Education, the area boards on developmental disabilities, the Organization of Area Boards, the Office of Statewide Health Planning and Development, and the California Environmental Protection Agency, including all boards and departments contained therein.

Subdivision (a) shall also apply to the Health and Welfare Agency which may make advance payments, pursuant to the requirements of that subdivision, to multipurpose senior services projects as established in Sections 9400 to 9413, inclusive, of the Welfare and Institutions Code.

(c) A county may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to any applicable federal or state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency.

SEC. 5. Section 11753.1 is added to the Government Code, to read:

11753.1. (a) The Legislature finds and declares that the name of the Health and Welfare Agency Data Center was changed to the California Health and Human Services Agency Data Center by Chapter 873 of the Statutes of 1999, effective January 1, 2000. The Legislature further finds and declares that this change of name was and is not intended to alter or modify any power, right, obligation, or duty of the data center that is found in statute, regulation, or contract.

(b) (1) Any reference in statute, regulation, or contract to the Health and Welfare Agency Data Center shall be deemed to refer to the California Health and Human Services Agency Data Center.

(2) Any reference to the prior Health and Welfare Data Center Revolving Fund shall be deemed to refer to the California Health and Human Services Agency Data Center Revolving Fund.

SEC. 6. Section 1588 of the Health and Safety Code is amended to read:

1588. (a) The state department shall, subject to the availability of funds appropriated therefor, conduct a grants-in-aid program for the following purposes:

(1) To assist in the establishment of new adult day health care centers.

(2) To assist in stabilizing or expanding the health care operations of adult day health care centers which have been licensed for a period of two years or less.

(3) To assist in expanding the health care operations of adult day health care centers which have been licensed for a period of two years or more when identified expansion meets criteria outlined in the specific guidelines established for the grant-supported activities. Expansion under this paragraph shall be based on documented unmet need.

(b) The grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the center, including staffing costs, required renovation costs, and facility rental costs.

SEC. 7. Section 1588.3 of the Health and Safety Code is amended to read:

1588.3. The grant amount available from funds appropriated through the Budget Act for the Adult Day Health Care Program shall not exceed one hundred twenty-five thousand dollars ($125,000) for a single project.

SEC. 8. Section 1588.5 of the Health and Safety Code is amended to read:

1588.5. In developing policies and priorities pertaining to the allocation of grant funds, the state department shall give primary consideration to the following factors:

(a) The applicant's immediate need for funds.

(b) The demonstrated community support for the project.

(c) The applicant's long-term prospects for financial stability.

(d) The applicant's demonstrated marketing strategies.

(e) The applicant's ability to provide innovative services and to coordinate with other services in the continuum of care.

(f) Special consideration shall be given to any applicant who is in any one of the following categories:

(1) Applicants in rural areas.

(2) Applicants in counties or service areas where there are no other centers.

(3) Applicants who will deliver services in an area with a high elderly ethnic minority population.

(4) Applicants who will deliver services in a service area with a high percentage of elderly Medi-Cal beneficiaries when compared to the total elderly population of the service area.

SEC. 9. Section 1588.7 of the Health and Safety Code is amended to read:

1588.7. (a) The state department shall adopt specific guidelines for the establishment of grant-supported activities, including criteria for evaluation of each activity and monitoring to assure compliance with grant conditions and applicable regulations of the state department. The guidelines shall be developed in consultation with the Long-Term Care Committee. Funds shall be awarded only after the local adult day health care planning council has had opportunity to review and comment on the

applicant's proposal pursuant to guidelines established for these grants and is approved by the state department. If an area does not have an active planning council, the department may exempt the applicant from local planning council review.

(b) The state department shall develop a contract with each selected project.

SEC. 10. Section 1589 of the Health and Safety Code is amended and renumbered to read:

1589.5. State administrative costs on grants issued pursuant to this article shall not exceed 10 percent of the amount of the grants.

SEC. 11. Section 1589 is added to the Health and Safety Code, to read:

1589. Subject to the appropriation of funds pursuant to the annual Budget Act, the department may establish planning and development grants for public or private nonprofit applicants that request assistance in conducting feasibility and needs analysis and that represent areas of the state meeting either of the following criteria:

(a) The area does not have an adult day health care planning council or the planning council has been inactive for at least three years.

(b) The area has not had a local needs assessment for adult day health services or the needs assessment has not been updated for at least 10 years.

SEC. 12. Section 1596.8713 of the Health and Safety Code is amended to read:

1596.8713. (a) The Department of Justice may charge a fee sufficient to cover its costs in providing services in accordance with Section 1596.871 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1596.871.

(b) (1) Between July 1, 2000, and July 1, 2001, no fee shall be charged by the Department of Justice or the State Department of Social Services for any costs associated with obtaining a California or Federal Bureau of Investigation criminal record or for conducting a child abuse index check, of a volunteer at a child care facility who is required to be fingerprinted pursuant to subdivision (b) of Section 1596.871, provided that the exemption does not cause an increase in fees for other providers.

(2) On or after July 1, 2001, no fee shall be charged for the purposes specified in paragraph (1) if funds for those purposes are appropriated in the annual Budget Act and the exemption does not cause an increase in fees for other providers.

(3) For purposes of this subdivision, ''volunteer'' means a person who provides services at a child care facility and does not receive any payment of a salary or hourly wage in exchange for these services.

SEC. 13. Section 11756.8 is added to the Health and Safety Code, to read:

11756.8. The department shall provide semiannual updates to the Legislature on its progress in implementing the systems of care redesign project, including, but not limited to, an updated timeline for the project.

SEC. 14. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, ''drug-Medi-Cal services'' means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care habilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(b) Upon federal approval of a federal medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, ''drug-Medi-Cal'' services shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.

(2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in gaining access to medical, social, educational, and other needed services.

(3) Aftercare services.

(c) The department shall adopt emergency regulations to implement subdivision (b). The regulations shall be developed in conjunction with appropriate stakeholders.

(d) (1) By July 1, 1997, and annually thereafter, the department shall publish procedures for contracting for drug-Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(2) By July 1, 1997, the department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate the claiming process and the process for the submission of specific data required in connection with reimbursement for drug-Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.

(e) A county or a contractor for the provision of drug-Medi-Cal services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the single state-county contract, for and provide certified services pursuant to Section 11758.42 for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(f) (1) Within 30 days of receipt of the proposal described in subdivision (e), the department shall provide, to counties and contractors proposing to provide drug-Medi-Cal services in the proposed budget year, a proposed multiple-year contract, as a component of the single state-county contract, for these services, a current utilization control plan, and appropriate administrative procedures.

(2) A county contracting for alcohol and drug services shall receive a single state-county contract for the net negotiated amount and drug-Medi-Cal services.

(3) Contractors contracting for drug-Medi-Cal services shall receive a drug-Medi-Cal contract.

(g) (1) Upon receipt of a contract proposal pursuant to subdivision (e), a county and a contractor seeking to provide reimbursable drug-Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve a contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (d) to (f), inclusive, the county shall have 30 additional days in which to approve a contract. If the county has not approved the contract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable drug-Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(h) (1) For counties and contractors providing drug-Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund

moneys shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing drug-Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from federal medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) By July 1, 1997, the State Department of Health Services and the department shall develop methods to ensure timely payment of drug-Medi-Cal claims.

(4) The State Department of Health Services, in cooperation with the department, shall take steps necessary to streamline the billing system for reimbursable drug-Medi-Cal services, to assist the department in meeting the billing provisions set forth in this subdivision.

(i) The department shall submit a proposed interagency agreement to the State Department of Health Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are approved by the State Department of Health Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(j) (1) A county or a provider certified to provide reimbursable drug-Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (k) applies, shall submit accurate and complete cost reports for the previous state fiscal year by November 1, following the end of the state fiscal year. The department may settle cost for drug-Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(k) Certified narcotic treatment program providers, that are exclusively billing the state or the county for services under Section 11758.42, shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that state fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state monthly reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the narcotic treatment providers.

SEC. 15. Section 11840.1 of the Health and Safety Code is amended to read:

11840.1. (a) Commencing January 1, 1985, and for every fiscal year thereafter, 10 percent county matching funds shall be required for support of programs and services provided under this part by a county of more than 100,000 population.

(b) Notwithstanding any other provision of law, no county matching funds shall be required pursuant to this section for funding received for the purposes of funding existing residential perinatal treatment programs that were begun through federal Center for Substance Abuse Treatment grants but whose grants expired on or before October 1, 2000. For counties in which there is such a provider, the State Department of Alcohol and Drug Programs shall include language in those counties' allocation letters that indicates the amount of the allocation designated for the provider during the fiscal year. This exemption shall only apply to the state funding provided to replace the expiring federal grants, and shall not apply to any subsequent program expansions.

SEC. 15.5 Section 11871 is added to the Health and Safety Code, to read:

11871. It is the intent of the Legislature that the State Department of Alcohol and Drug Programs, in collaboration with the State Department of Health Services and stakeholders in the medical and treatment provider communities, work to identify methods for better informing medical doctors of the benefits of diagnosing and treating substance abuse among their patient population, including, but not limited to, improved outreach efforts at the state and local levels and the use of information dissemination strategies, where appropriate.

SEC. 16. Section 11970.2 of the Health and Safety Code is amended to read:

11970.2. (a) A county alcohol and drug program administrator and the presiding judge in the county shall develop and submit a comprehensive multiagency drug court plan for implementing cost-effective local drug court systems for adults, juveniles, and parents of children who are detained by, or are dependents of the juvenile court to be eligible for funding under this chapter. The plan shall do all of the following:

(1) Describe existing programs that serve substance abusing adults, juveniles, and parents of children who are detained by, or are dependents of, the juvenile court.

(2) Provide a local action plan for implementing cost-effective drug court systems, including any or all of the following drug court systems:

(A) Drug courts operating pursuant to Sections 1000 to 1000.5, inclusive, of the Penal Code.

(B) Drug courts for juvenile offenders.

(C) Drug courts for parents of children who are detained by, or are dependents of, the juvenile court.

(D) Drug courts for parents of children in family law cases involving custody and visitation issues.

(E) Other drug court systems that are approved by the Drug Court Partnership Executive Steering Committee.

(3) Develop information-sharing systems to ensure that county actions are fully coordinated, and to provide data for measuring the success of the local action plan in achieving its goals.

(4) Identify outcome measures that will determine the cost effectiveness of the local action plan.

(b) The department, in collaboration with the Judicial Council, shall distribute funds to eligible counties using the two thousand five hundred dollars ($2,500) per million/remainder per capita methodology, subject to appropriation in the Budget Act. Funding shall be used to supplement, rather than supplant, existing programs. Funding for counties that opt not to participate in the program shall be distributed on a per capita basis to participating counties.

(1) Funds distributed to counties shall be used for programs that are identified in the local plan. Acceptable uses may include, but are not limited to, any of the following: drug court coordinators, case management, training, drug testing, treatment, transportation, and other costs related to the implementation of the plan.

(2) No funds shall be distributed unless the applicant makes available resources in an amount equal to at least 10 percent of the amount of the funds distributed in years one and two, and 20 percent of the amount of the funds distributed in years three, four, and five.

(c) The department, with concurrence from the Judicial Council, shall establish minimum standards, funding schedules, and procedures for funding programs.

(d) The department, in collaboration with the Judicial Council, shall create an evaluation design for the Comprehensive Drug Court Implementation Act of 1999, that will assess the effectiveness of the program. The department, together with the Judicial Council, shall develop an interim report to be submitted to the Legislature on or before March 1, 2004, and a final analysis of the program in a report to be submitted to the Legislature on or before March 1, 2005.

SEC. 17. Section 1611.5 of the Unemployment Insurance Code is amended to read:

1611.5. (a) Notwithstanding Section 1611, the Legislature may appropriate from the Employment Training Fund twenty million dollars ($20,000,000) in the Budget Act of 1997 and five million dollars ($5,000,000) in the Budget Act of 1999 for training programs designed for workers who are current or recent recipients of benefits under the

CalWORKs program pursuant to Section 10214.7. The Legislature may appropriate from the Employment Training Fund thirty million dollars ($30,000,000) in the Budget Act of 1999 and the Budget Act of 2000 for purposes of funding the local assistance portion of welfare-to-work activities under the CalWORKs program, provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, as administered by the State Department of Social Services.

(b) Funds available pursuant to the Budget Act of 1997 pursuant to this section that are not encumbered in the 1997–98 fiscal year may, upon appropriation by the Legislature, be carried over into the 1998–99 fiscal year for expenditures consistent with Section 10214.7.

SEC. 17.5. Section 9617 is added to the Unemployment Insurance Code, to read:

9617. (a) To the extent that funds are provided in the Budget Act of 2000 for the purposes of providing competitive grants to faith-based organizations that are not owned or operated as pervasively sectarian organizations, those organizations receiving funding shall demonstrate that they are able to meet the following six criteria in the provision of services:

(1) Establishing linkages with local workforce development service delivery systems.

(2) Leveraging resources through collaboration and partnerships.

(3) Establishing intermediate and long-term outcome goals, with measurable indicators.

(4) Collecting and maintaining data that can be used for management decisionmaking.

(5) Using data to assess progress and evaluate effectiveness.

(6) Sharing information with stakeholders.

(b) The department shall provide technical assistance to organizations as needed to enable them to meet the six criteria specified in paragraphs (1) to (6), inclusive, of subdivision (a).

(c) The department shall collect and analyze the following information as it relates to the organizations funded under this section:

(1) The number of participants who experienced job placements, wage gains, increased job retention, increased educational achievement, and reduced use of public assistance programs.

(2) The cost per participant.

(3) Organizations' effectiveness in serving populations with barriers to employment who are missed by traditional service providers.

(4) The department's success in transitioning the organizations to longer-term funding sources.

(d) The department shall provide an interim report with regard to the competitive grants provided under this section to the Legislature on or

before May 15, 2001, and shall provide a final report to the Legislature on or before September 1, 2001.

SEC. 18. Section 10201.5 is added to the Unemployment Insurance Code, to read:

10201.5. With respect to funding appropriated in the annual Budget Act to the Employment Development Department for allocation by the Employment Training Panel and identified for training of workers in regions suffering from high unemployment and low job creation, including the working poor, the panel, notwithstanding subdivision (g) of Section 10201, may waive the minimum wage requirements included in that subdivision provided that the post-retention wage of each trainee who has completed training and the required training period exceeds his or her wage before and during training. This determination shall be made on a case-by-case basis to ensure that post-training improvements in earnings are sufficient to warrant the investment of public funds.

SEC. 18.2. Article 2.5 (commencing with Section 10529) is added to Chapter 4.5 of Part 1 of Division 3 of the Unemployment Insurance Code, to read:

Article 2.5. California Workforce and Economic Information Program

10529. (a) The services provided by the existing labor market information system within the department shall include workforce and economic information that does all of the following:

(1) Provides data and information to the state Workforce Investment Board created pursuant to Section 2821 of Title 29 of the United States Code, to enable the board to plan, operate, and evaluate investments in the state's workforce preparation system that will make the California economy more productive and competitive.

(2) Provides data and information to the California Economic Strategy Panel for continuous strategic planning and the development of policies for the growth and competitiveness of the California economy.

(3) Identifies and combines information from various state data bases to produce useful, geographically based analysis and products, to the extent possible using existing resources.

(4) Provides technical assistance related to accessing workforce and economic information to local governments, public-sector entities, research institutes, nonprofit organizations, and community groups that have various levels of expertise, to the extent possible using existing resources.

(b) The department shall coordinate with the Trade and Commerce Agency, the State Department of Education, the Chancellor of the California Community Colleges, the State Department of Social

Services, the California Postsecondary Education Commission, the Department of Finance, and the Franchise Tax Board in developing economic and workforce information. The department shall also solicit input in the operation of the program from public and private agencies and individuals that make use of the labor market information provided by the department.

SEC. 18.4. Chapter 7 (commencing with Section 11020) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read:

CHAPTER 7. CAREGIVER TRAINING INITIATIVE

11020. (a) There is hereby established a project known as the Caregiver Training Initiative.

(b) It is the intent of the Legislature that the Caregiver Training Initiative develop and implement proposals to recruit, train, and retain health care providers such as certified nurse assistants, certified nurses, registered nurses, licensed vocational nurses, and other types of nursing and direct-care staff.

(c) (1) An advisory council is hereby established for purposes of the Caregiver Training Initiative.

(2) The advisory council shall develop goals, policies, and a general work plan for the Caregiver Training Initiative. For purposes of this paragraph, the advisory council shall consider the program model set forth in Section 11024.

(3) The duties of the advisory council shall include all of the following:

(A) Making recommendations regarding the identification of regions of the state for purposes of the initiative.

(B) Making recommendations to the Employment Development Department and the State Department of Social Services regarding the number of regional collaborative programs that should be funded under the initiative.

(C) Based on the number and size of the regions and programs to be funded, making recommendations to the Employment Development Department and the State Department of Social Services regarding the number of staff that should be assigned to the regions to assist in developing collaborative programs consisting of partnerships and funding proposals.

(D) Making suggestions and recommendations to the Employment Development Department and the State Department of Social Services with regard to the selection of the collaborative programs to be funded in each region under the initiative and of the contracts entered into between the state and the local agencies representing regional partners.

(E) Providing oversight of the progress of the initiative and identifying any needed corrective actions.

(F) Designating a member of the advisory council to participate in the work group established by the Employment Development Department, in conjunction with the State Department of Social Services, pursuant to paragraph (2) of subdivision (a) of Section 11022.

(d) The advisory council shall consist of the following:

(1) Each director, or a designee of the director, of the following departments in the California Health and Human Services Agency:

(A) Employment Development Department.

(B) Office of Statewide Health Planning and Development.

(C) State Department of Social Services.

(D) State Department of Health Services.

(E) California Department of Aging.

(2) A representative from each of the following:

(A) County Welfare Directors Association.

(B) State Department of Education.

(C) Chancellor's Office of the California Community Colleges.

(D) California Association of Health Facilities.

(E) California Association of Homes and Services for the Aging.

(F) American Red Cross.

(G) California Nurses Association.

(H) Service Employees International Union.

11022. (a) (1) The Employment Development Department, in consultation with the State Department of Social Services, shall administer regional collaborative program selection and funding under the Caregiver Training Initiative.

(2) The Employment Development Department, in conjunction with the State Department of Social Services, shall establish and lead a work group that shall be responsible for staff support to the advisory committee established pursuant to subdivision (c) of Section 11020.

(3) The Employment Development Department, in conjunction with the State Department of Social Services, shall be responsible for all of the following:

(A) Under the direction of the California Health and Human Services Agency, developing the criteria for regional collaborative programs, the number of staff to be assigned to regions, and the process for selecting regional collaborative programs to be funded.

(B) Assigning staff to each region to assist in developing collaborative programs consisting of partnerships and proposals for funding.

(C) Determining the date by which collaborative programs from each region shall submit their proposals for consideration.

(D) Selecting the collaborative program proposal from each region that best meets the criteria established by the department.

(E) Working with representatives from the health care provider and caregiver industries and labor, negotiating contract terms that best serve the initiative's goals.

(F) Approving all contracts for participation under the initiative.

(G) Distributing funds to the appropriate local agencies to commence the regional collaborative programs.

(H) Providing staff support to the advisory council established under subdivision (c) of Section 11020.

(I) Carrying out state-level activities identified by the department that are necessary for the initiative's success.

(b) The Employment Development Department, in conjunction with the State Department of Social Services, shall evaluate or contract for the evaluation of the regional collaborative programs funded under the initiative. The evaluation of each program site funded under the initiative shall include the following elements:

(1) A thorough assessment of implementation issues faced by grantees.

(2) An analysis, using appropriate statistical techniques, of identified outcomes of interest, including employment retention, advancement, earnings, and worker well-being measures.

(3) Annual population-based surveys of current and former CalWORKs recipients as they enter training programs and make choices about employment or subsequent job change.

(4) Identification and collection of well-being data regarding health care providers and caregivers and the recipients of their care.

(5) Construction and analysis of longitudinal administrative data.

(6) In-depth interviews with workers, staff, health care providers, and caregivers.

(c) The Employment Development Department shall develop a strategy to improve understanding of the demand and supply of labor, and the labor market dynamics for low-skilled workers who choose occupations such as certified nurse assistants. To develop the strategy, the department shall develop information about and analyze all of the following:

(1) Alternative occupations competing for available labor.

(2) The effect of conditions in other occupations using similar skill sets on the supply of labor in occupations related to health care providers and caregivers.

(3) Occupational ladders for health care providers and caregivers.

(4) The efforts by county welfare departments to increase interest in the health care provider and caregiver industry.

(5) Factors that draw individuals into or push them away from entering the health care provider or caregiver industry.

(6) Ways that nursing homes, long-term care facilities, and in-home care provider communities can improve the quality of employment of health care providers and caregivers.

(7) The treatment of staff in nursing homes and long-term care facilities.

(8) Worker compensation claims and claims of workplace violence due to patients with Alzheimer's disease or dementia.

(9) Benefit packages.

(10) On-the-job training for career advancement as a health care provider or caregiver in nursing homes or long-term care facilities or advancement in fields related to an occupation as a health care provider or caregiver.

11024. (a) The program model for implementation of the Caregiver Training Initiative shall consist of a solicitation and competitive selection process to identify proposals from regional collaborative programs that offer the best solutions to removing barriers for attracting and retaining qualified health care providers, such as certified nurse assistants, certified nurses, registered nurses, licensed vocational nurses, and other types of nursing and direct care staff.

(b) Proposals for funding under the initiative submitted by regional collaborative programs shall address all of the following topics:

(1) Marketing and outreach strategies that will attract eligible participants to begin careers in the health care provider industry and promote public awareness, especially among employers, to the opportunity to hire trained health care providers.

(2) Collaboration and agreements with state and local agency partners to help identify, refer, and provide services to eligible participants.

(3) Development and use of innovative training strategies, coupled with industry cooperation, to provide matching career paths that will enable participants to advance in the health care industry, including in nursing occupations such as certified nurse assistants, certified nurses, registered nurses, and licensed vocational nurses.

(4) Strategies for providing incentives to health care employers to hire program participants, such as taking advantage of existing tax credits, and incentives for participants to remain in and graduate from the program, such as postemployment training and support components.

(5) Leveraging additional resources to support activities that are not allowable with local welfare-to-work (Article 3.2 (commencing with Section 11320) of Chapter 1 of Part 3 of Division 9 of the Welfare and Institutions Code) funds and Workforce Investment Act of 1998 (29

U.S.C. Sec. 2801, et seq.) funds and that will provide flexibility in serving participants.

(c) The regional collaborative programs that compete for contracts under the initiative may include partnerships of any combination of local governmental entities, private nonprofit entities, and employer or employee groups. In order to ensure oversight for funds used in these contracts, fiscal agents representing these collaborative programs shall demonstrate all of the following:

(1) The capacity to retain fiduciary responsibility for funds.

(2) That the fiscal agent was chosen by agreement of collaborating partners.

(3) Previous experience using public funds for similar projects.

(4) The ability to properly account for and administer funds.

SEC. 19. Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the social worker to the same persons as in the original proceeding, to the child's parent or guardian, to the foster parents, relative caregivers, community care facility, or foster family agency having physical custody of the child in the case of a child removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally or by certified mail return receipt requested, or any other form of actual notice is equivalent to service by first-class mail.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. The notice to the foster parent, relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency shall indicate that the foster parent, relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency

may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, the progress made, and, where relevant, the prognosis for return of the child to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. If the child is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or guardian, the social worker shall provide a summary of his or her recommendation for disposition to the counsel for the child, any court-appointed child advocate, foster parents, relative caregivers, certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, community care facility, or foster family agency having the physical custody of the child at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or foster family agency that may result in the return of the child to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to the hearing involving a child in the physical custody of a foster parent, a relative caregiver, or a certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, the foster parent, relative caregiver, or the certified foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the

physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(3) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the child is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the child was under the age of three years on the date of the initial removal or is a member of a sibling group described in paragraph (3) of subdivision (a) of Section 361.5 and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under the age of three years on the date of initial removal or is a member of a sibling group described in paragraph (3) of subdivision

(a) of Section 361.5, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

For the purpose of placing and maintaining a sibling group together in a permanent home, the court, in making its determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group, as described in paragraph (3) of subdivision (a) of Section 361.5, shall review and consider the social worker's report and recommendations. Factors the report shall address, and the court shall consider, may include, but need not be limited to, whether the sibling group was removed from parental care as a group, the closeness and strength of the sibling bond, the ages of the siblings, the appropriateness of maintaining the sibling group together, the detriment to the child if sibling ties are not maintained, the likelihood of finding a permanent home for the sibling group, whether the sibling group is currently placed together in a preadoptive home or has a concurrent plan goal of legal permanency in the same home, the wishes of each child whose age and physical and emotional condition permits a meaningful response, and the best interest of each child in the sibling group. The court shall specify the factual basis for its finding that it is in the best interest of each child to schedule a hearing pursuant to Section 366.26 in 120 days for some or all of the members of the sibling group.

If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

If the child is not returned to his or her parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian in overcoming the problems that led to the initial removal and

the continued custody of the child. The court shall order that those services be initiated, continued, or terminated.

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to subdivision (a) of Section 361.5. At the permanency hearing, the court shall determine the permanent plan for the child, that shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. The court shall order the return of the child to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian to overcome the problems that led to the initial removal and continued custody of the child. The failure of the parent or guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(3) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the child is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1),

(2), or (3) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

The court shall inform the parent or guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.36 may be instituted. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the child remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency that adoption is not in the best interest of the child shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the child

and shall not preclude a different recommendation at a later date if the child's circumstances change.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(A) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(B) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(C) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the child pending the hearing unless it finds that visitation would be detrimental to the child.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, ''extended family'' for the purpose of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment

shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(5) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program as provided in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, ''relative'' means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words ''great,'' ''great-great,'' or ''grand,'' or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

SEC. 20. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or guardian. The court shall order the return of the child to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Evidence of any or all of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to achieve legal permanence for the child if efforts to reunify fail.

(3) Services to achieve legal permanence for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

Whether or not the child is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the child is not returned to a parent or guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency, that there is a compelling reason, as described in paragraph (2) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent. The court shall continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or guardian.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of

each child shall be reviewed on a case-by-case basis, ''extended family'' for the purposes of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(5) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(c) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program as provided in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, ''relative'' means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words ''great,'' ''great-great,'' or ''grand,'' or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

SEC. 21. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child until the child is adopted or the legal guardianship is established. The status of the child shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the child

has been granted, the court shall terminate its jurisdiction over the child. Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court following the establishment of a legal guardianship or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least 12 months, the court shall, except where the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 360 or 366.26 shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the child. Prior to the hearing on a petition to terminate guardianship pursuant to this paragraph, the court shall order the county department of social services or welfare department to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in the guardian's home, without terminating the guardianship, if services were provided to the child or guardian. If applicable, the report shall also identify recommended services to maintain the guardianship and set forth a plan for providing those services. If the petition to terminate guardianship is granted, the juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the guardianship has been revoked

or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. Whenever the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

(1) Upon the request of the child's parents or guardians.

(2) Upon the request of the child.

(3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the minor remain in long-term foster care pursuant to Section 366.21, 366.22, 366.26, or subdivision (g).

(4) It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision (f), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the

child, shall consider the safety of the child, and shall determine all of the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The continuing appropriateness and extent of compliance with the permanent plan for the child.

(3) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts to return the child to a safe home and to complete whatever steps are necessary to finalize the permanent placement of the child.

(4) The adequacy of services provided to the child.

(5) The extent of progress the parents have made toward alleviating or mitigating the causes necessitating placement in foster care.

(6) The likely date by which the child may be returned to and safely maintained in the home, placed for adoption, legal guardianship, or in another planned permanent living arrangement.

(7) For a child who is 16 years of age or older, the services needed to assist the child to make the transition from foster care to independent living.

The reviewing body shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents for a period not to exceed six months.

(f) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) Whether the child has been placed with a prospective adoptive parent or parents.

(4) Whether an adoptive placement agreement has been signed and filed.

(5) The progress of the search for an adoptive placement if one has not been identified.

(6) Any impediments to the adoption or the adoptive placement.

(7) The anticipated date by which the child will be adopted, or placed in an adoptive home.

(8) The anticipated date by which an adoptive placement agreement will be signed.

(9) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(g) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or whether the child should remain in long-term foster care. The court shall order that a hearing be held pursuant to Section 366.26 unless it determines by clear and convincing evidence, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the licensed adoption agency, or the department when it is acting as an adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in long-term foster care, without holding a hearing pursuant to Section 366.26.

(h) If, as authorized by subdivision (g), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month

review at which it is ordered, and at that hearing the court shall determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child.

SEC. 22. Section 903.7 of the Welfare and Institutions Code is amended to read:

903.7. (a) There is in the State Treasury the Foster Children and Parent Training Fund, the moneys contained in which shall be used exclusively for the purposes set forth in this section.

(b) For each fiscal year beginning with fiscal year 1981–82, except as provided in Sections 15200.1, 15200.2, 15200.3, 15200.8, and 15200.81, and Section 17704 of the Family Code, the Department of Child Support Services shall determine the amount equivalent to the state share of collections attributable to the enforcement of parental fiscal liability pursuant to Sections 903, 903.4, and 903.5. On July 1, 1982, and every three months thereafter, the department shall notify the Chancellor of the Community Colleges, the Department of Finance, and the Superintendent of Public Instruction of the above-specified amount. The State Department of Social Services shall authorize the quarterly transfer of any portion of this amount for any particular fiscal year exceeding three million seven hundred fifty thousand dollars ($3,750,000) to the Treasurer for deposit in the Foster Children and Parent Training Fund.

(c) If sufficient moneys are available in the Foster Children and Parent Training Fund, up to three million dollars ($3,000,000) shall be allocated for the support of foster parent training programs conducted in community colleges. The maximum amount authorized to be allocated pursuant to this subdivision shall be adjusted annually by a cost-of-living increase each year based on the percentage given to discretionary education programs. Funds for the training program shall be provided in a separate budget item in that portion of the Budget Act pertaining to the Chancellor of the California Community Colleges, to be deposited in a separate bank account by the Chancellor of the California Community Colleges.

The chancellor shall use these funds exclusively for foster parent training, as specified by the chancellor in consultation with the California State Foster Parents Association and the State Department of Social Services.

The plans for each foster parent training program shall include the provision of training to facilitate the development of foster family homes and small family homes to care for no more than six children who have special mental, emotional, developmental, or physical needs.

The State Department of Social Services shall facilitate the participation of county welfare departments in the foster parent training program. The State Foster Parents Association, or the local chapters

thereof, and the State Department of Social Services shall identify training participants and shall advise the chancellor on the form, content, and methodology of the training program. Funds shall be paid monthly to the foster parent training program until the maximum amount of funds authorized to be expended for that program is expended. No more than 10 percent or seventy-five thousand dollars ($75,000) of these moneys, whichever is greater, shall be used for administrative purposes; of the 10 percent or seventy-five thousand dollars ($75,000), no more than ten thousand dollars ($10,000) shall be expended to reimburse the State Department of Social Services for its services pursuant to this paragraph.

(d) Beginning with fiscal year 1983–84, and each fiscal year thereafter, after all allocations for foster parent training in community colleges have been made, any moneys remaining in the Foster Children and Parent Training Fund may be allocated for foster children services programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of the Education Code.

(e) The Controller shall transfer moneys from the Foster Children and Parent Training Fund to the Chancellor of the Community Colleges and the Superintendent of Public Instruction as necessary to fulfill the requirements of subdivisions (c) and (d).

After the maximum amount authorized in any fiscal year has been transferred to the Chancellor of the Community Colleges and the Superintendent of Public Instruction, the Controller shall transfer any remaining funds to the General Fund for expenditure for any public purpose.

SEC. 23. Section 9113 is added to the Welfare and Institutions Code, to read:

9113. Area agencies on aging shall maintain in effect contracts funded from appropriations made by the Budget Act of 2000 for community-based service program expansion until July 1, 2004.

SEC. 24. Section 9305 of the Welfare and Institutions Code is amended to read:

9305. The funds for the California Senior Legislature and the supportive activities of the commission for the California Senior Legislature shall be allocated from the California Fund for Senior Citizens, private funds directed to the Legislature or the commission for the purpose of funding activities of the California Senior Legislature, or appropriate federal funds.

SEC. 24.5. Section 10544.1 of the Welfare and Institutions Code is amended to read:

10544.1. (a) It is the intent of the Legislature to provide counties with grant savings as defined in subdivisions (d) and (e) subject to the amounts appropriated in the annual Budget Act.

(b) It is the intent of the Legislature that the counties use the funds, when appropriated, to do all of the following:

(1) Improve the quality of jobs provided to recipients.

(2) Help individuals attain long-term self-sufficiency.

(3) Prevent the need for CalWORKs benefits for those families making the transition from the CalWORKs program.

(c) It is further the intent of the Legislature to evaluate the efforts of counties in using the funds to improve the state's understanding of how best to assist families in attaining long-term and sustained self-sufficiency.

(d) In order to provide counties with additional incentive to move CalWORKs recipients to employment, each county shall receive the state share of savings, including federal funds under the Temporary Assistance for Needy Families block grant subject to the amounts appropriated in the annual Budget Act, resulting from the following outcomes:

(1) Recipients exiting the program due to employment that has lasted a minimum of six months.

(2) Increased earnings by recipients due to employment.

(3) Diversion of applicants from the program pursuant to Section 11266.5 for six months in addition to the number of months equivalent to the diversion payment.

(e) (1) For purposes of subdivision (d), the department, shall apply the method for valuing the outcomes to determine county share of savings that was utilized in fiscal years 1998–99 and 1999–2000, except that increased earning by recipients due to employment shall be valued at 50 percent of actual grant savings instead of 100 percent.

(2) The method shall be adjusted as appropriate, and determined in consultation with program stakeholders, to account for any changes made to the Temporary Assistance to Needy Families program requirements for block grant funding levels as a result of Congressional reauthorization of the program in 2002.

(f) The funds allocated to counties pursuant to subdivisions (d) and (e) that are federal Temporary Assistance for Needy Families block grant funds shall be used only for purposes for which these federal funds may be used. The funds that are state General Fund dollars shall be expended for purposes directly connected to the CalWORKs program and countable towards the state maintenance of effort level required by federal law, unless the Director of Finance determines that all or part of the funds are not needed in that fiscal year to meet the required maintenance of effort. Any unexpended funds may be retained by each county for expenditure in subsequent fiscal years for purposes consistent with this subdivision.

(g) (1) Notwithstanding Section 11250 or any other provision of law, commencing October 1, 2000, exclusively for purposes of county performance incentives provided under this section and exclusively for purposes of providing nonassistance services pursuant to Section 42 U.S.C. Sec. 601(a)(1) and (2) to families not receiving aid under this chapter, ''needy families'' also includes any family in which the minor child is living with a parent or adult relative caregiver and the family's income is less than 200 percent of the official federal poverty guidelines applicable to a family of the size involved.

(2) A county shall not expend more than 25 percent of its performance incentive funds for purposes of this subdivision.

(3) For purposes of this subdivision, ''nonassistance services'' means services that do not constitute assistance as defined in applicable federal law and regulations governing the Temporary Assistance for Needy Families program.

(h) Each county shall submit a plan to the department describing how it intends to expend its fiscal incentive funds and how the benefits and services relate to the issue of sustaining self-sufficiency. The plan shall also describe how these services will be coordinated with other services within the community that are funded from sources such as the county's single allocation, Welfare-to-Work grants, and community college funds.

(i) Each county shall report quarterly on the actual expenditure of funds under this section and shall complete a self-evaluation report annually on the results of the benefits and services provided and any lessons the county has learned from the approach it has taken.

(j) The department shall evaluate the programs that have been supported by county incentive funds to determine the extent to which the goals of the TANF program and the goals specified in this section are achieved.

(k) Acceptance of incentive funds beginning with the 2000–01 fiscal year shall constitute a waiver of any claim, cause of action, or action whenever filed, with respect to fiscal incentives earned through the 1999–2000 fiscal year under subdivision (c) of this section as enacted by Chapter 270 of the Statutes of 1997, but not allocated to counties by the department.

(*l*) This section shall not be interpreted to entitle any individual or family to assistance or services under any program created and funded under this section.

SEC. 25. Section 10609.3 of the Welfare and Institutions Code is amended to read:

10609.3. (a) By January 1, 1995, the State Department of Social Services shall complete, in consultation with county Independent Living Program administrators, placement agencies, providers, advocacy

groups, and community groups, a comprehensive evaluation of the Independent Living Program established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) and develop recommendations available to the public on how independent living services could better prepare foster youth for independence and adulthood.

(b) The department shall investigate alternative transition housing models for youth between the ages of 17 and 18 who are in out-of-home placements under the supervision of the county department of social services or county probation department. To the extent federal funds are available and it is in the best interests of the children, the department shall develop and implement a transitional housing model for youth who are preparing for emancipation from foster care.

(c) The department shall also investigate alternative transition models for youth discharged from foster care to live on their own. As part of this investigation, the department shall consider the needs of youth for housing, transportation, health care, access to community resources, employment, and other support services.

(d) The department shall, with the approval of the federal government, amend the foster care state plan, provided for pursuant to Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670, et seq.), and the child welfare services state plan (42 U.S.C. Sec. 622), to permit all eligible children be served by the Independent Living Program up to the age of 21 years.

(e) (1) Effective July 1, 2000, the department, in consultation with the Independent Living Program Strategic Planning Committee, shall develop and implement a stipend to supplement and not supplant the Independent Living Program. To qualify for this stipend, a youth shall be otherwise eligible for the Independent Living Program, have been emancipated from foster care to live on his or her own, and be approved by the county. The stipend may provide for, but not be limited to, assisting the youth with the following independent living needs:

(A) Bus passes.

(B) Housing rental deposits and fees.

(C) Housing utility deposits and fees.

(D) Work-related equipment and supplies.

(E) Training-related equipment and supplies.

(F) Education-related equipment and supplies.

(2) Notwithstanding Section 10101, the state shall pay 100 percent of the nonfederal costs associated with the stipend program in paragraph (1), subject to the availability of funding provided in the annual Budget Act.

SEC. 25.5. Section 10609.6 is added to the Welfare and Institutions Code, to read:

10609.6. (a) The department, in consultation with the seven member task force specified in subdivision (b), shall develop a plan to implement the recommendations of the evaluation required by Section 10609.5.

(b) The task force created pursuant to this section shall include all of the following:

(1) The director, or his or her designee.

(2) One representative from each of the following:

(A) The Department of Finance.

(B) The County Welfare Directors Association.

(C) The California State Association of Counties.

(D) Child welfare services consumers.

(E) Children's advocacy organizations.

(F) Child welfare social worker organizations.

(c) If participation on the task force convened pursuant to this section will cause hardship for the representative of child welfare consumers identified in paragraph (4) of subdivision (b), the department, upon the request of the representative, shall provide reimbursement for travel and other expenses directly related to participation in the task force. Except as provided in this subdivision, no task force member shall receive compensation or any other payment for serving on the task force.

(d) The department shall submit the implementation plan to the appropriate policy and fiscal committees of the Legislature on or before June 30, 2001.

SEC. 30. Section 11265.2 of the Welfare and Institutions Code is amended to read:

11265.2. (a) (1) Notwithstanding any other provision of law, commencing July 1, 2000, subject to the agreement of the local district attorney, Los Angeles County and up to eight counties selected by the department may implement this section.

(2) Subject to paragraph (3) and notwithstanding any other provision of law, all counties that have not implemented this section pursuant to paragraph (1) may begin implementation of this section on January 1, 2005, and shall complete implementation of this section no later than January 1, 2006. This paragraph shall become inoperative on January 1, 2005.

(3) Counties participating in the eligibility simplification project under Section 11265.6 may delay implementation of this section until the expiration of the eligibility simplification project if implementation of this section would be inconsistent with the federal approval of the eligibility simplification project.

(4) On or before January 1, 2004, the department shall evaluate the impact of this section in a sufficient number of participating counties to reliably describe this section's impact. The department shall collaborate

with the Office of Criminal Justice Planning in conducting the program integrity aspects of this evaluation.

(b) Each county shall conduct an annual eligibility redetermination. A county shall be required to have a face-to-face interview with the recipient at the redetermination, unless the recipient has regular contact with the county through CalWORKs or other similar programs. Subsequent face-to-face interviews for any recipient for purposes related to verification of eligibility or the provision of CalWORKs services may be conducted at the county's discretion.

(c) Each county shall redetermine the financial eligibility of each recipient on a quarterly basis.

(d) (1) A recipient shall report, in writing, to the county within 10 days any change in resources, his or her household's monthly income, including source of income, his or her address, or the composition of his or her household if the report would be required under the federal food stamp reporting requirement for nonmonthly reporting households. The county shall recalculate an assistance unit's grant level only upon the report of any required change, provided that the department obtains the appropriate waiver, as specified in subdivision (i). If the United States Department of Agriculture denies this waiver, counties shall recalculate an assistance unit's grant level based upon any reported changes.

(2) Each quarter the recipient shall complete a quarterly report which shall be signed under penalty of perjury. The report shall include all information necessary from the quarterly report month to determine financial eligibility.

(3) For each of the first two months covered by the quarterly report, the recipient shall state whether there was any income, and for each type of reportable change listed in paragraph (1), other than a change of address, whether such a change occurred, and if so, whether the change was reported in writing. If the recipient states that a reportable change occurred during the first two months covered by the quarterly report and was not reported in writing or the county has no record that a recipient made a written report, it shall require that the information that should have been reported pursuant to paragraph (1) be reported in writing and under penalty of perjury within 10 days of receiving notice from the county. A failure to provide the report required by this paragraph within the 10-day period shall result in a termination of benefits, after receiving notice from the county as required by state and federal law.

(4) (A) If the recipient fails to submit a quarterly report by the date prescribed by the department, the county shall provide the recipient with a notice, as required by the department, that the county will terminate benefits.

(B) Prior to terminating benefits, the county shall attempt to make personal contact to remind the recipient that a completed report is due, or, if contact is not made, shall send a reminder notice to the recipient.

(C) Any discontinuance notice shall be rescinded and aid shall be restored if the report is received by the first working day of the month for which aid is paid based on submission of the quarterly report.

(e) In recalculating the amount of a recipient's grant pursuant to this section, including the timing and provision of any supplementary payment, changes in the grant amount shall be made on a prospective basis pursuant to food stamp regulations for nonmonthly reporting households.

(f) Counties shall provide a mechanism for recipients to retain written documentation of the contents of the report, pursuant to minimum standards established by the department.

(g) The department shall define what constitutes a complete report, and shall specify the deadlines for submitting a complete report, as well as the consequences of, and good cause for, failure to submit a complete report.

(h) In determining overpayments and underpayments, the county shall use the federal food stamp regulations that are used to determine overissuances and underissuances for nonmonthly reporting households.

(i) The department shall seek all necessary waivers from the United States Department of Agriculture to conform the Food Stamp Program requirements to the provisions of this section and to increase the income reporting amount for nonmonthly reporting households to one hundred dollars ($100).

(j) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until the department may implement a reporting and budgeting system, as described in this section, through an all county letter or similar instructions from the director for up to six months from the date of initial implementation.

(k) The department shall adopt regulations to implement this section no later than six months from the date of initial implementation. Emergency regulations adopted for implementation of the applicable provisions of this section may be adopted by the director in accordance with the Administrative Procedure Act. The initial adoption of emergency regulations and one readoption of these regulations shall be deemed to be an emergency and necessary for immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing

with the Secretary of State and shall remain in effect for no more than 180 days.

(*l*) 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 on or before January 1, 2006, extends or deletes that date.

SEC. 34. Section 11363 of the Welfare and Institutions Code is amended to read:

11363. (a) Aid in the form of Kin-GAP shall be provided under this article on behalf of any child under 18 years of age who meets all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300.

(2) Has been living with a relative for at least 12 consecutive months.

(3) Has had a kinship guardianship with that relative established as the result of the implementation of a permanent plan pursuant to Section 366.26.

(4) Has had his or her dependency dismissed after January 1, 2000, pursuant to Section 366.3, concurrently or subsequent to the establishment of the kinship guardianship.

(b) Kin-GAP payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met.

(c) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of 12 months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3 and the court terminates dependency jurisdiction.

SEC. 35. Section 11367 of the Welfare and Institutions Code is amended to read:

11367. (a) Kin-GAP, in an amount equal to the then current Kin-GAP rate, shall be paid utilizing the applicable regional per-child CalWORKs grant from federal funds received as a part of the TANF block grant program grant. The balance of Kin-GAP shall be paid in equal portions by the state and the counties.

(b) The department shall seek any federal funds available for implementation of this article, including, but not limited to, funds available under Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.), unless doing so would be detrimental to the state General Fund. Implementation of the Kin-GAP program shall not, however, be contingent upon receipt of any federal funding.

(c) Any savings that accrue to the department as a result of this article shall revert to the General Fund. Savings that accrue to a county shall accrue to that county's social services subaccount in its local health and welfare trust fund.

SEC. 36. Section 11372 of the Welfare and Institutions Code is amended to read:

11372. Notwithstanding any other provision of law, the Kinship Guardianship Assistance Payment Program implemented under this article is exempt from the provisions of Chapter 2 (commencing with Section 11200) of Part 3, except Sections 11253.5, and 11265.8, as long as these exemptions would not jeopardize federal financial participation in the payment. Any exemptions exercised pursuant to this section shall be implemented in accordance with Section 11369.

SEC. 37. Section 11374 is added to the Welfare and Institutions Code, to read:

11374. (a) Each county that formally had court ordered jurisdiction under Section 300 over a child receiving benefits under the Kin-GAP program shall be responsible for paying the child's aid regardless of where the child actually resides, so long as the child resides in California.

(b) Notwithstanding any other provision of law, when a child receiving benefits under the CalWORKs program or the AFDC-FC foster care program becomes eligible for benefits under the Kin-GAP program during any month, the child shall continue to receive benefits under the CalWORKs program or the AFDC-FC foster care program, as appropriate, to the end of that calendar month, and Kin-GAP payments shall begin the first day of the following month.

SEC. 38. Section 11375 is added to the Welfare and Institutions Code, to read:

11375. The following shall apply to any child in receipt of Kin-GAP benefits:

(a) He or she is eligible to request and receive independent living services pursuant to Section 10609.3.

(b) He or she may retain cash savings, not to exceed ten thousand dollars ($10,000), including interest, in addition to any other property accumulated pursuant to Section 11257 or 11257.5.

SEC. 40. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0–4	$ 294
5–8	319
9–11	340
12–14	378
15–20	412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county that did not increase the basic rate by 12 percent on January 1, 1990, shall do both of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A) by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(4) Effective July 1, 1998, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 6 percent. Notwithstanding any other provision of law, the 6-percent increase provided for in this paragraph shall, retroactive to July 1, 1998, apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(5) Notwithstanding any other provision of law, any increase that takes effect after July 1, 1998, shall apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(6) The increase in the basic foster family home rate shall apply only to children placed in a licensed foster family home receiving the basic rate or in an approved home of a relative or nonrelated legal guardian receiving the basic rate. The increased rate shall not be used to compute

the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.

(d) (1) (A) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to the methodology described in Section 11453, subject to the availability of funds.

(B) In addition to the adjustment in subparagraph (A) effective January 1, 2000, the schedule of basic rates in subdivision (a) shall be increased by 2.36 percent rounded to the nearest dollar.

(2) (A) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county's adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(B) Notwithstanding subparagraph (A), all counties for the 1999–2000 fiscal year shall receive an increase in state participation for the basic rate of the entire percentage adjustment described in paragraph (1).

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, ''specialized care increment'' means an approved amount paid with state participation on behalf of an AFDC-FC child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. On the effective date of this section, the department shall continue and maintain the current ratesetting system for specialized care.

(2) Any county that, as of the effective date of this section, has in effect specialized care increments that have been approved by the department, shall continue to receive state participation for those payments.

(3) Any county that, as of the effective date of this section, has in effect specialized care increments that exceed the amounts that have been approved by the department, shall continue to receive the same level of state participation as it received on the effective date of this section.

(4) (A) Except for subparagraph (B), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivision (c)

and (d). No county shall receive state participation for any increases in a specialized care increment which exceeds the adjustments made in accordance with this methodology.

(B) Notwithstanding subdivision (e) of Section 11460, for the 1993–94 fiscal year, an amount equal to 5 percent of the State Treasury appropriation for family homes shall be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(f) (1) As used in this section, ''clothing allowance'' means the amount paid with state participation in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms.

(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.

(3) Beginning January 1, 1990, except as provided in paragraph (4), clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivision (c) and (d). No county shall be reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.

(4) For the 2000–01 fiscal year and each fiscal year thereafter, without a county share of cost, notwithstanding subdivision (c) of Section 15200, each child shall be entitled to receive a supplemental clothing allowance of one hundred dollars ($100) per year subject to the availability of funds. The clothing allowance shall be used to supplement, and not supplant, the clothing allowance specified in paragraph (1).

SEC. 41. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, ''The Classification of Group Home Programs under the Standardized Schedule of Rates System,'' prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, ''standardized schedule of rates'' means a listing of the 14 rate classification levels, and the single rate established for each RCL.

(e) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) (A) For new and existing providers requesting the establishment of an RCL, and for existing group home programs requesting an RCL increase, the department shall determine the RCL no later than 13 months after the effective date of the provisional rate. The determination of the RCL shall be based on a program audit of documentation and other information that verifies the level of care and supervision provided by the group home program during a period of the two full calendar months or 60 consecutive days, whichever is longer, preceding the date of the program audit, unless the group home program requests a lower RCL. The program audit shall not cover the first six months of operation under the provisional rate. Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home

program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

(B) A group home program may apply for an increase in its RCL no earlier than two years from the date the department has determined the group home program's rate, unless the host county, the primary placing county, or a regional consortium of counties submits to the department in writing that the program is needed in that county, that the provider is capable of effectively and efficiently operating the proposed program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(C) To ensure efficient administration of the department's audit responsibilities, and to avoid the fraudulent creation of records, group home programs shall make records that are relevant to the RCL determination available to the department in a timely manner. Except as provided in this section, the department may refuse to consider, for purposes of determining the rate, any documents that are relevant to the determination of the RCL that are not made available by the group home provider by the date the group home provider requests a hearing on the department's RCL determination. The department may refuse to consider for purposes of determining the rate, the following records, unless the group home provider makes the records available to the department during the field work portion of the department's program audit:

(i) Records of each employee's full name, home address, occupation, and social security number.

(ii) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals, and total daily hours worked.

(iii) Total wages paid each payroll period.

(iv) Records required to be maintained by licensed group home providers under the provisions of Title 22 of the California Code of Regulations that are relevant to the RCL determination.

(D) To minimize financial abuse in the startup of group home programs, when the department's RCL determination is more than three levels lower than the RCL level proposed by the group home provider, and the group home provider does not appeal the department's RCL determination, the department shall terminate the rate of a group home program 45 days after issuance of its program audit report. When the group home provider requests a hearing on the department's RCL determination, and the RCL determined by the director under subparagraph (E) is more than three levels lower than the RCL level proposed by the group home provider, the department shall terminate the

rate of a group home program within 30 days of issuance of the director's decision. Notwithstanding the reapplication provisions in subparagraph (B), the department shall deny any request for a new or increased RCL from a group home provider whose RCL is terminated pursuant to this subparagraph, for a period of no greater than two years from the effective date of the RCL termination.

(E) A group home provider may request a hearing of the department's RCL determination under subparagraph (A) no later than 30 days after the date the department issues its RCL determination. The department's RCL determination shall be final if the group home provider does not request a hearing within the prescribed time. Within 60 days of receipt of the request for hearing, the department shall conduct a hearing on the RCL determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) The standardized schedule of rates for fiscal year 1998–99 is:

Rate Classification Level	Point Ranges	FY 1998-99 Standard Rate
1	Under 60	$1,254
2	60- 89	1,567
3	90-119	1,879
4	120-149	2,191
5	150-179	2,502
6	180-209	2,815
7	210-239	3,127
8	240-269	3,440
9	270-299	3,751
10	300-329	4,064
11	330-359	4,375
12	360-389	4,688
13	390-419	5,003
14	420 & Up	5,314

(g) (1) (A) For the 1999–2000 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453. The resultant amounts shall constitute the new standardized schedule of rates, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment in subparagraph (A), commencing January 1, 2000, the standardized rate for each RCL shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized schedule of rates.

(2) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts shall constitute the new standardized schedule of rates.

(3) Effective January 1, 2001, the amount included in the standard rate for each Rate Classification Level for the salaries, wages, and benefits for staff providing child care and supervision or performing social work activities, or both, shall be increased by 10 percent. This additional funding shall be used by group home programs solely to supplement staffing, salaries, wages, and benefit levels of staff specified in this paragraph. The standard rate for each RCL shall be recomputed using this adjusted amount and the resultant rates shall constitute the new standardized schedule of rates. The department may require a group

home receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

(h) The standardized schedule of rates pursuant to subdivisions (f) and (g) shall be implemented as follows:

(1) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(2) Any group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive the RCL rate for the current year.

(i) (1) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(2) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(3) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, ''program change'' means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 2000, and as adjusted pursuant to subparagraph (B) of paragraph (1) of subdivision (g), except as provided in paragraph (3).

(3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the department shall not establish a rate for a new program of a new or

existing provider or approve a program change for an existing provider that either increases the program's RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another program with a lower RCL or lower AFDC-FC rate that is operated by that provider, unless both of the conditions specified in this paragraph are met.

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if (i) the licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program, and (ii) the new program or program change will result in a reduction of referrals to state hospitals during the 1998–99 fiscal year.

(*l*) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(m) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

SEC. 42. Section 11463 of the Welfare and Institutions Code is amended to read:

11463. (a) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall develop, implement, and maintain a ratesetting system for foster family agencies.

No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on January 1, 1990, as specified in subdivision (c) of Section 11461.

(b) The department shall develop regulations specifying the purposes, types, and services of foster family agencies, including the use

of those agencies for the provision of emergency shelter care. Distinction for ratesetting purposes shall be drawn between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.

(d) On and after July 1, 1998, the schedule of rates, and the components used in the rate calculations specified in the department's regulations, for foster family agencies shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

(e) (1) On and after July 1, 1999, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar, subject to the availability of funds. The resultant amounts shall constitute the new schedule of rates for foster family agencies, subject to further adjustment pursuant to paragraph (2).

(2) In addition to the adjustment specified in paragraph (1), commencing January 1, 2000, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

(f) For the 1999–2000 fiscal year, foster family agency rates that are not determined by the schedule of rates set forth in the department's regulations, shall be increased by the same percentage as provided in subdivision (e).

(g) For the 2000–01 fiscal year and each fiscal year thereafter, without a county share of cost, notwithstanding subdivision (c) of Section 15200, the foster family agency rate shall be supplemented by one hundred dollars ($100) for clothing per year per child in care, subject to the availability of funds. The supplemental payment shall be used to supplement, and shall not be used to supplant, any clothing allowance paid in addition to the foster family agency rate.

(h) In addition to the adjustment made pursuant to subdivision (e), the component for social work activities in the rate calculation specified in the department's regulations for foster family agencies shall be increased by 10 percent, effective January 1, 2001. This additional funding shall be used by foster family agencies solely to supplement staffing, salaries, wages, and benefit levels of staff performing social work activities. The schedule of rates shall be recomputed using the adjusted amount for

social work activities. The resultant amounts shall constitute the new schedule of rates for foster family agencies. The department may require a foster family agency receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

SEC. 43. Section 11465.6 is added to the Welfare and Institutions Code, to read:

11465.6. (a) Up to five counties selected by the department, and at the discretion of the counties, may implement a countywide program for licensed family homes and relative caregivers receiving payments under this chapter under which they may receive reimbursement for the cost of licensed child care for each foster child under 13 years of age in the care of the licensed family home or the relative caregiver, during any period that any of the following apply:

(1) The foster parent or relative caregiver is working outside the home.

(2) The foster parent or relative caregiver is participating in foster care training.

(3) The foster parent or relative caregiver is fulfilling necessary foster care-related administrative duties, such as conferences and judicial reviews that are not ordinarily parental duties.

(b) A foster family home shall only receive a reimbursement for child care that is provided by a licensed provider and if an agreement has been documented in the child's case plan.

(c) The cost for reimbursements authorized by this section shall be shared equally between the state and the county. Funds appropriated pursuant to Chapter 6 (commencing with Section 17600) of Part 5 shall not be used to meet the county match requirement under this section.

(d) The department shall, in consultation with participating counties, establish rates of child care reimbursement under this section.

(e) Of the five counties to be selected, the department shall select, at minimum, one large county, one medium county, and one small county, based on population size if a county from each category submits a written expression of its desire to participate. In addition, the department shall give priority to any county that meets both of the following criteria:

(1) The county has experienced a net loss in the total number of licensed foster family homes.

(2) The county has demonstrated a deficit in the number of licensed foster family beds for the county's population of foster children requiring out-of-home placement.

(f) Each participating county shall report to the department on an annual basis. The information to be reported to the department shall be determined by the department in consultation with the County Welfare Director's Association. At a minimum, the annual report shall include the number of foster parents claiming a child care reimbursement, the

number of children served under this section, and an analysis of the impact of the child care reimbursement on the recruitment and retention of licensed foster home providers. The department shall provide the appropriate policy and fiscal committees of the Legislature with a report of the use of child care pursuant to this section on or before June 30, 2003.

(g) The department may issue emergency regulations for the purpose of implementing this section.

SEC. 44. Section 11467.2 is added to the Welfare and Institutions Code, to read:

11467.2. (a) The department shall contract with an independent evaluator to conduct a study of alternative funding mechanisms for group home care in California and to formulate a proposed funding system for the care and supervision of children who are placed in group home care. The independent evaluator shall consider and evaluate alternative funding mechanisms, including, but not limited to, cost-based rates, individual client needs-based rates, managed care rates, program type rates, and negotiated rates, and shall propose a specific mechanism and procedure, for children subject to Sections 300 or 602 who are placed in group homes. The study shall consider empirical research, current foster care program service needs, other state funding systems, and any other relevant data, including information obtained from the final report regarding the Reexamination of the Role of Group Care Within a Family Based System of Care, as mandated by Chapter 311 of the Statutes of 1998.

(b) The department shall convene a steering committee to provide direction for the study, which shall be comprised of appropriate state and county agencies, as well as group home providers, current or former foster youth, and other interested parties.

(c) The department shall provide a copy of the final report submitted pursuant to subdivision (a) to the appropriate fiscal and policy committees of the Legislature on or before October 1, 2001. Any proposal or recommendations submitted pursuant to this section shall not become effective unless enacted pursuant to statute.

(d) Pending completion of a new rate system, this section shall not be construed in any way to prohibit recognition through the budget process of the costs of operating under the current rate system or the consideration of rate adjustments.

SEC. 44.2. Section 12301.6 of the Welfare and Institutions Code is amended to read:

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable, written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (d) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (d) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1 or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to, all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) Investigation of the qualifications and background of potential personnel.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) Providing for training for providers and recipients.

(5) Performing any other functions related to the delivery of in-home supportive services.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section

shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services Program. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services. Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42

of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(*l*) (1) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(2) Notwithstanding subdivision (h) of Section 11364.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(m) (1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (c) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (g) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Paragraph (1) shall become inoperative when the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State

Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

SEC. 44.4. Section 12306.1 of the Welfare and Institutions Code is repealed.

SEC. 44.6. Section 12306.1 is added to the Welfare and Institutions Code, to read:

12306.1. (a) When any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium under Section 12301.6, then the county shall use county-only funds to fund both the county share and the state share, including employment taxes, of any increase in the cost of the program, unless otherwise provided for in the annual Budget Act or appropriated by statute. No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act, and unless and until all of the following conditions have been met:

(1) Each county has provided the department with documentation of the approval of the county board of supervisors of the proposed public authority of nonprofit consortium rate, including wages and related expenditures. The documentation shall be received by the department before the department and the State Department of Health Services may approve the increase.

(2) Each county has met department guidelines and regulatory requirements as a condition of receiving state participation in the rate.

(b) Any rate approved pursuant to subdivision (a) shall take effect commencing on the first day of the month subsequent to the month in

which final approval is received from the department. The department may grant approval on a conditional basis, subject to the availability of funding.

(c) The state shall pay 65 percent, and each county shall pay 35 percent, of the nonfederal share of wage and benefit increases negotiated by a public authority or nonprofit consortium pursuant to Section 12301.6 and associated employment taxes, only in accordance with subdivisions (d) to (f), inclusive.

(d) (1) The state shall participate as provided in subdivision (c) in wages up to seven dollars and fifty cents ($7.50) per hour and individual health benefits up to sixty cents ($0.60) per hour for all public authority or nonprofit consortium providers. This paragraph shall be operative for the 2000–01 fiscal year and each year thereafter unless otherwise provided in paragraphs (2), (3), (4), and (5).

(2) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to nine dollars and ten cents ($9.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the nine dollars and ten cents ($9.10) per hour shall be used to fund wage increases above seven dollars and fifty cents ($7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenues, excluding transfers, for the year in which paragraph (1) became operative.

(3) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to ten dollars and ten cents ($10.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the ten dollars and ten cents ($10.10) per hour shall be used to fund wage increases above seven dollars and fifty cents ($7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenue, excluding transfers, for the year in which paragraph (2) became operative.

(4) The state shall participate as provided in subdivision (c) in a total of wages and individual health benefits up to eleven dollars and ten cents ($11.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the

collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the eleven dollars and ten cents ($11.10) per hour shall be used to fund wage increases or individual health benefits, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenues, excluding transfers, for the year in which paragraph (3) became operative.

(5) The state shall participate as provided in subdivision (c) in a total cost of wages and individual health benefits up to twelve dollars and ten cents ($12.10) per hour, if wages have reached at least seven dollars and fifty cents ($7.50) per hour. Counties shall determine, pursuant to the collective bargaining process provided for in subdivision (c) of Section 12301.6, what portion of the twelve dollars and ten cents ($12.10) per hour shall be used to fund wage increases above seven dollars and fifty cents ($7.50) per hour or individual health benefit increases, or both. This paragraph shall be operative commencing with the next state fiscal year for which the May Revision forecast of General Fund revenue, excluding transfers, exceeds by at least 5 percent, the most current estimate of revenues, excluding transfers, for the year in which paragraph (4) became operative.

(e) (1) On or before May 14 immediately prior to the fiscal year for which state participation is provided under paragraphs (2) to (5), inclusive, of subdivision (d), the Director of Finance shall certify to the Governor, the appropriate committees of the Legislature, and the department that the condition for each subdivision to become operative has been met.

(2) For purposes of certifications under paragraph (1), the General Fund revenue forecast, excluding transfers, that is used for the relevant fiscal year shall be calculated in a manner that is consistent with the definition of General Fund revenues, excluding transfers, that was used by the Department of Finance in the 2000–01 Governor's Budget revenue forecast as reflected on Schedule 8 of the Governor's Budget.

(f) Any increase in state participation in wage and benefit increases under paragraphs (2) to (5), inclusive, of subdivision (d), shall be limited to an increase of one dollar ($1) per hour with respect to any fiscal year.

SEC. 44.8. Section 12306.2 is added to the Welfare and Institutions Code, to read:

12306.2. (a) Notwithstanding any other provision of law, for the 2000–01 fiscal year, the state shall pay 65 percent and each county shall pay 35 percent of the nonfederal share of any increase to individual provider wages a county chooses to grant, up to 3 percent above the statewide minimum wage.

(b) This section shall not apply to providers who are employees of a public authority or nonprofit consortium pursuant to Section 12301.6.

(c) This section shall be operative on January 1, 2001.

SEC. 45. Section 12306.3 is added to the Welfare and Institutions Code, to read:

12306.3. In consultation with stakeholder organizations, including, but not limited to, the California State Association of Counties and employee organizations representing in-home supportive service workers, the department shall develop and evaluate various options for providing health care benefits for uninsured individual in-home supportive services providers who are not employees of a public authority or nonprofit consortium under Section 12301.6. The department shall report its findings and recommendations to the Legislature by January 15, 2001.

SEC. 46. Section 13002 of the Welfare and Institutions Code is amended to read:

13002. From the funds described in Section 13001 each county shall receive three allocations. The first allocation shall be for support of Child Welfare Services as defined in Chapter 5 (commencing with Section 16500 of Part 4). This allocation shall be known as the Child Welfare Services Grant. The second allocation shall be for support of protective services and foster care services for adults, information and referral services, transportation to and from health care facilities, and other services directed at the five national goals specified in Section 13003. This allocation shall be known as the County Services Block Grant. The third allocation shall be for in-home supportive services administration. The notice of such action must be provided at least seven days prior to the meeting at which such action is to be taken. Such notice shall be provided in the same manner as the county provides notice for its regularly scheduled meetings. Funds from the Child Welfare Services Grant and the County Services Block Grant and the in-home supportive services administration allocations shall be available only when matched by county funds pursuant to the provisions of Part 1.5 (commencing with Section 10100).

SEC. 47. Section 14021.35 is added to the Welfare and Institutions Code, to read:

14021.35. (a) The State Department of Alcohol and Drug Programs shall prepare amendments to the medicaid state plan in order to obtain federal financial participation for Drug-Medi-Cal Program provisions contained in subdivision (b) of Section 11758.46 of the Health and Safety Code. The department shall review the recommended state plan amendments prepared by the State Department of Alcohol and Drug Programs. If the department determines that the recommended state plan amendments satisfy federal requirements for federal financial

participation, the department shall submit an amendment to the medicaid state plan for medical assistance under Section 1915(g) of the federal Social Security Act (Title 42 U.S.C. Sec. 1396n(g)), to implement Drug-Medi-Cal Program provisions contained in subdivision (b) of Section 11758.46 of the Health and Safety Code.

(b) Upon federal approval for federal financial assistance, the department, in consultation with the State Department of Alcohol and Drug Programs, shall define the new services, as needed, shall establish the standards under which those services qualify as Drug-Medi-Cal reimbursable services, and shall develop appropriate rates of reimbursement for those services, subject to utilization controls.

SEC. 48. Section 15200.05 of the Welfare and Institutions Code is amended to read:

15200.05. (a) Federal block grant funds received for the Temporary Assistance for Needy Families program pursuant to subtitle A (commencing with Section 401) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.) may be deposited in, and shall be administered through, the Temporary Assistance for Needy Families Fund, which is hereby created in the State Treasury. Upon authorization by the Director of Finance, special accounts may be established within this fund, and the fund may be used in accounting for any federal Temporary Assistance for Needy Families block grant funds received from the federal government after August 22, 1996.

(b) A fund condition statement for the federal block grant received for the Temporary Assistance for Needy Families program shall be provided to the Department of Finance with the estimates submitted pursuant to subdivision (d) of Section 10614 whether or not the Temporary Assistance for Needy Families Fund created by this section is used for the deposit and administration of those moneys.

SEC. 49. Section 15204.3 of the Welfare and Institutions Code is amended to read:

15204.3. (a) Beginning in the 2000–01 fiscal year, allocation of funds provided under Section 15204.2 shall be made, in the case of funds for benefits administration and employment services, based on projected county costs and subject to funds appropriated in the annual Budget Act for operating the CalWORKs program under Chapter 2 (commencing with Section 11200). By November 1, 1999, the department and the County Welfare Directors Association shall jointly develop the specific components of this budgeting methodology, including a process for ensuring that costs funded under the methodology are reasonable and consistent with the requirements of this chapter. It is the intent of the Legislature that limited-term housing assistance be considered as part of the cost-based allocation methodology, where appropriate.

(b) No later than November 1, 2002, the Welfare Reform Steering Committee shall review the efficacy of the methodology in subdivision (a) and make recommendations, if any, for modification to the methodology.

(c) In the 1997–98 fiscal year, additional funds for welfare-to-work administration above GAIN allocation in the 1996–97 fiscal year shall be distributed among the counties with two-thirds allocated to all counties based on each county's share of adults aided under Chapter 2 (commencing with Section 11200). The remaining one-third shall be allocated among only those counties that in the prior year received an allocation per average aided adult at a level less than the statewide average, and shall be distributed among those counties so that they each receive the same overall allocation per average aided adult for welfare-to-work administration.

(d) For purposes of this section, and subject to funds appropriated in the annual Budget Act, no county shall receive less for employment services than what was received in the 1997–98 fiscal year allocation for welfare-to-work administration unless a county projects that its cost will be less than its 1997–98 fiscal year allocation for employment services.

SEC. 50. Section 16001.7 is added to the Welfare and Institutions Code, to read:

16001.7. (a) The department shall promote the participation of current and former foster youth in the development of state foster care and child welfare policy. Subject to the availability of funds, the department shall contract with the California Youth Connection to provide technical assistance and outreach to current and former foster youth. In executing this contract, the responsibilities of the California Youth Connection shall include, but are not limited to, all of the following:

(1) Providing leadership training to current and former foster youth between the ages of 14 and 21 years.

(2) Providing outreach and technical assistance to current and former foster youth to form and maintain California Youth Connection chapters, including recruiting and training adult volunteer supporters.

(3) Enabling foster youth to be represented in policy discussions pertinent to foster care and child welfare issues.

(4) Enhancing the well-being of foster youth and increasing public understanding of foster care and child welfare issues.

(5) Developing educational materials and forums related to foster care.

(b) Funds provided to the California Youth Connection pursuant to the contract shall not be used for activities not allowed under federal law relating to the receipt of federal financial participation for independent living services, including, but not limited to, lobbying and litigation.

SEC. 52. Section 18918 is added to the Welfare and Institutions Code, to read:

18918. Not later than January 15, 2001, the State Department of Social Services, in conjunction with the State Department of Health Services and appropriate stakeholders, shall develop and submit to the Legislature a community outreach and education campaign to help families learn about, and apply for, the federal Food Stamp Program and the California Food Assistance Program. At a minimum, the plan shall include the following:

(a) Specific milestones and objectives proposed to be completed for the upcoming year and their anticipated cost.

(b) A general description of each strategy or method to be used for outreach.

(c) Geographic areas and special populations to be targeted, if any, and why the special targeting is needed.

(d) Coordination with other state or county education and outreach efforts.

(e) The results of previous years' outreach efforts.

(1) If necessary to obtain federal financial participation the food stamp outreach plan shall be submitted to the United States Department of Agriculture not later than January 15, 2001. The state share of the funding shall be subject to appropriation in the annual Budget Act and may be funded through the General Fund or other state or local funding sources, as appropriate.

(2) After submission of the initial plan, it shall be updated annually and submitted to the Legislature by April 1 for the following year.

SEC. 53. Section 18930 of the Welfare and Institutions Code is amended to read:

18930. (a) The State Department of Social Services shall establish a Food Assistance Program to provide assistance for those persons described in subdivision (b). The department shall enter into an agreement with the United States Department of Agriculture to use the existing federal Food Stamp Program coupons for the purposes of administering this program. Persons who are members of a household receiving food stamp benefits under this chapter or under Chapter 10 (commencing with Section 18900), and are receiving CalWORKs benefits under Chapter 2 (commencing with Section 11200) of Part 3 on September 1, 1998, shall have eligibility determined under this chapter without need for a new application no later than November 1, 1998, and the beginning date of assistance under this chapter for those persons shall be September 1, 1998.

(b) (1) Except as provided in paragraphs (2), (3), and (4) and Section 18930.5, noncitizens of the United States shall be eligible for the program established pursuant to subdivision (a) if the person's

immigration status meets the eligibility criteria of the federal Food Stamp Program in effect on August 21, 1996, but he or she is not eligible for federal food stamp benefits solely due to his or her immigration status under Public Law 104-193 and any subsequent amendments thereto.

(2) Noncitizens of the United States shall be eligible for the program established pursuant to subdivision (a) if the person is a battered immigrant spouse or child or the parent or child of the battered immigrant, as described in Section 1641(c) of Title 8 of the United States Code, as amended by Section 5571 of Public Law 105-33, or if the person is a Cuban or Haitian entrant as described in Section 501(e) of the federal Refugee Education Assistance Act of 1980 (Public Law 96-122).

(3) An applicant who is otherwise eligible for the program but who entered the United States on or after August 22, 1996, shall be eligible for aid under this chapter only if he or she is sponsored and one of the following apply:

(A) The sponsor has died.

(B) The sponsor is disabled as defined in subparagraph (A) of paragraph (3) of subdivision (b) of Section 11320.3.

(C) The applicant, after entry into the United States, is a victim of abuse by the sponsor or the spouse of the sponsor if the spouse is living with the sponsor.

(4) An applicant who is otherwise eligible for the program but who entered the United States on or after August 22, 1996, who does not meet one of the conditions of paragraph (3), shall be eligible for aid under this chapter for the period beginning on October 1, 1999, and ending September 30, 2001.

(5) The applicant shall be required to provide verification that one of the conditions of subparagraph (A), (B), or (C) have been met.

(6) For purposes of subparagraph (C) of paragraph (2), abuse shall be defined in the same manner as provided in Section 11495.1 and Section 11495.12. A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to, the following:

(A) Police, government agency, or court records or files.

(B) Documentation from a domestic violence program, legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.

(C) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

(D) Physical evidence of abuse.

(7) If the victim cannot provide additional evidence of abuse, then the sworn statement shall be sufficient if the county makes a determination documented in writing in the case file that the applicant is credible.

(c) In counties approved for alternate benefit issuance systems, that same alternate benefit issuance system shall be approved for the program established by this chapter.

(d) (1) To the extent allowed by federal law, the income, resources, and deductible expenses of those persons described in subdivision (b) shall be excluded when calculating food stamp benefits under Chapter 10 (commencing with Section 18900).

(2) No household shall receive more food stamp benefits under this section than it would if no household member was rendered ineligible pursuant to Title IV of Public Law 104-193 and any subsequent amendments thereto.

(e) This section shall become operative on September 1, 1998.

SEC. 54. Section 18938 of the Welfare and Institutions Code is amended to read:

18938. (a) (1) Subject to paragraphs (2) and (3), an individual, upon application, shall be eligible for the program established pursuant to Section 18937 if his or her immigration status meets the eligibility criteria of the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled (SSI/SSP) in effect on August 21, 1996, but he or she is not eligible for SSI/SSP benefits solely due to his or her immigration status under Title IV of Public Law 104-193 and any subsequent amendments thereto.

(2) An applicant who is otherwise eligible for the program, but who entered the United States on or after August 22, 1996, shall be eligible for aid under this chapter only if he or she is sponsored and one of the following conditions is met:

(A) The sponsor has died.

(B) The sponsor is disabled, as defined in subparagraph (A) of paragraph (3) of subdivision (b) of Section 11320.3.

(C) The applicant, after entry into the United States, is a victim of abuse by the sponsor or the spouse of the sponsor if the spouse is living with the sponsor.

(3) An applicant who is otherwise eligible for the program but who entered the United States on or after August 22, 1996, and who does not meet one of the conditions of paragraph (2) shall be eligible for aid under this chapter for the period beginning on October 1, 1999, and ending on September 30, 2001.

(4) The applicant shall be required to provide verification that one of the conditions of subparagraphs (A), (B), or (C) of paragraph (2) has been met.

(5) (A) For purposes of subparagraph (C) of paragraph (2), abuse shall be defined in the same manner as provided in Section 11495.1 and Section 11495.12. A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to, the following:

(i) Police, government agency, or court records or files.

(ii) Documentation from a domestic violence program, legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.

(iii) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.

(iv) Physical evidence of abuse.

(B) If the victim cannot provide additional evidence of abuse, then the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

(b) The department shall periodically redetermine the eligibility of each individual.

(c) The department shall take all steps necessary to qualify any benefits paid under this section to be eligible for reimbursement as federal Interim Assistance including requiring a repayment agreement.

SEC. 55. Article 3.5 (commencing with Section 18959) is added to Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.5. Juvenile Crime Prevention

18959. There is hereby established, under the direction of the Office of Child Abuse Prevention, a Juvenile Crime Prevention Program. The program shall consist of up to 16 sites throughout the state, which shall provide juvenile crime prevention services.

18959.1. (a) Sites funded pursuant to this article shall be selected through a competitive process established by the Office of Child Abuse Prevention. Criteria to be considered in this competitive process shall include, but not be limited to, a demonstrated ability to provide services that are related to juvenile crime.

(b) For the 2000–01 fiscal year, the Office of Child Abuse Prevention shall continue to fund the 12 sites that are currently providing juvenile crime prevention services until new contracts are entered into pursuant to the completion of the competitive process required by subdivision (a).

(c) Funding for this program is subject to appropriation in the annual Budget Act.

18959.2. This article shall become inoperative on September 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. 56. Section 19352 of the Welfare and Institutions Code is amended to read:

19352. As used in this chapter:

(a) ''Habilitation services'' means those community-based services purchased or provided for adults with developmental disabilities including work activity and supported employment, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) ''Individual program plan'' means the overall plan developed by a regional center pursuant to Section 4646.

(c) ''Individual habilitation component'' means the plan developed for each eligible individual for whom services are purchased under this chapter.

(d) ''Department'' means the Department of Rehabilitation.

(e) ''Work-activity program'' includes, but is not limited to, sheltered workshops or work-activity centers, or community-based work activity programs accredited under departmental regulations.

(f) ''Habilitation team'' means a group, which shall be established for each work-activity program or supported employment services, which shall be composed of the following members:

(1) The regional center case manager.

(2) The work-activity or supported employment program case-responsible individual.

(3) A habilitation specialist designated by the department.

(4) The work-activity or supported employment program consumer, and where appropriate, his or her parent, legal guardian, or conservator and any other individual named by the consumer.

(5) In cases where the work-activity or supported employment consumer is also a vocational rehabilitation consumer, the vocational rehabilitation counselor.

(g) ''Work-activity program day'' means the period of time during which a work-activity program provides services to clients.

(h) ''Full day of service'' means, for purposes of billing, a day in which the consumer attends a minimum of the declared and approved work-activity program day, less 30 minutes, excluding the lunch period.

(i) ''Half day of service'' means, for purposes of billing, (1) all days of attendance in which the consumer's attendance does not meet the criteria for billing for a full day of service as defined in subdivision (h), and (2) the consumer attends the work activity program not less than two hours excluding the lunch period.

(j) ''Supported employment program'' means a program which meets the requirements of Sections 19356.6 and 19356.7.

(k) ''Consumer'' means any individual who receives services purchased under this chapter.

(*l*) ''Consumer with special needs'' means any individual who needs an enriched program of services due to multiple disabling conditions or other unique needs of the consumer which include, but shall not be limited to, mobility impairments, blindness, deafness, or psychiatric impairment.

(m) ''Accreditation'' means a determination of compliance with the set of standards appropriate to the delivery of services by a work-activity program or supported employment program, developed by the CARF—The Rehabilitation Accreditation Commission, and applied by the commission or the department.

(n) ''Direct service professional'' means a staff member within a work activity program who deals directly with the client, including activities such as supervision, training, counseling, and teaching.

SEC. 57. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. (a) The department shall adopt regulations to establish rates for work-activity program services subject to the approval of the Department of Finance. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of service. Reasonable costs shall be determined biennially by the department, subject to audit at the discretion of the department.

(b) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation work-activity programs pursuant to subdivision (a). Nothing in this subdivision shall preclude the subsequent amendment or adoption of regulations pursuant to subdivision (a).

(c) The department shall, for each work activity program, calculate the value of wages, benefits, and wage related costs for all direct service professionals correctly reported on the 1998–99 Habilitation Services Ratesetting Manual Form D, lines 11-15, excluding fundraising, administration, all nonwork activity program, and transportation columns.

(d) Subject to the appropriation of funds in the 2000–01 Budget Act for this purpose, the department shall increase the rates for each work activity program for services provided on and after September 1, 2000, by multiplying the calculation made pursuant to subdivision (c) by the appropriate percentage and dividing it by the total days correctly

reported on the 1998–99 Habilitation Services Ratesetting Manual Form H, line 12.

(e) The maximum daily rate for a work activity program established pursuant to the Habilitation Services Ratesetting Manual shall be adjusted to the degree necessary to accommodate the full value of the wage passthrough rate increase calculated pursuant to subdivision (d).

(f) Each work activity program receiving a rate increase pursuant to subdivision (d) shall certify to the department that these funds shall be used only to increase wages, benefits, and wage related costs for direct service professionals, and not to fund other staff or for any other purpose.

(g) The department shall, in the course of its normal audit process, verify that the funds allocated for this purpose have been used only to adjust wages, benefits, and wage related costs for direct service professionals, and not to fund other staff or for any other purpose.

SEC. 58. Section 19356.65 is added to the Welfare and Institutions Code, to read:

19356.65. Notwithstanding any other provision of law and except as provided in Section 19533.5, the hourly rate for supported employment services shall be twenty-eight dollars and thirty-three cents ($28.33) effective July 1, 2000.

SEC. 59. Section 19806 of the Welfare and Institutions Code is amended to read:

19806. (a) An independent living center shall not be required to provide any matching funds through private contributions as a condition of receiving state funds except to acquire state incentive funds.

(b) Each independent living center, except those centers which have been both established and maintained using federal funding under Title VII(c) of the federal Rehabilitation Act of 1973 as amended as their primary base grant, as determined by the department, shall receive to the extent funds are appropriated by the Legislature, at least two hundred thirty-five thousand dollars ($235,000) in base grant funds allocated by the department. The department shall allocate to those centers with Title VII(c) base grant funds of less than two hundred thirty-five thousand dollars ($235,000) an amount that, when combined with the Title VII(c) grant, equals two hundred thirty-five thousand dollars ($235,000).

(c) State funds may be replaced by reimbursements under the Supplemental Security Disability Insurance and the Supplemental Security Income programs provided for under Titles II and XVII of the Federal Social Security Act, Subchapter II (commencing with Section 401) and Subchapter XVII (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code to the extent appropriated by the Legislature and allocated by the department to independent living centers under this chapter. Beginning with the 1998–99 fiscal year, and each year thereafter, to the extent these funds from the Social Security

Act are not appropriated by the Legislature as were appropriated in the 1997–98 fiscal year, an amount equal to the combined state and federal fund allocation to independent living centers in the Budget Act of 1997 shall be appropriated to, and allocated by, the department to independent living centers under this chapter.

(d) (1) Available state incentive funds shall be allocated at the beginning of each fiscal year based upon the average amount of private contributions received by the independent living center in the second and third preceding fiscal years.

(2) The maximum amount of incentive funds that may be allocated to any independent living center in any single fiscal year shall be computed as follows:

(A) ''Pool One'' is defined as 60 percent of all state incentive funds. ''Pool Two'' is defined as 40 percent of all state incentive funds. Each independent living center shall be entitled to an equal portion of Pool One, not to exceed the amounts raised pursuant to paragraph (1).

(B) Incentive funds from Pool One not used after the initial allocation pursuant to subparagraph (A) shall be added to Pool Two for allocation among all centers that had unmatched private contributions after distribution of Pool One funds. Pool Two funds shall be awarded in direct proportion to each center's percentage of the total remaining unmatched private contributions raised by those independent living centers.

(3) For the purpose of determining eligibility for state incentive funds, any independent living center that uses a fiscal year other than the state fiscal year may elect to use a different fiscal year so long as the closing date of the fiscal year so elected does not precede the closing date of the equivalent state fiscal year by more than 11 months.

(4) The amount of private contributions claimed by an independent living center for each fiscal year shall be verified by the department by utilizing appropriate financial records including, but not limited to, independent audits. Audits may be performed by the department up to three years from the close of the fiscal year during which state incentive funds were received by the independent living center being audited.

(5) State incentive funds that are not distributed to independent living centers shall not be allocated or retained by the department for distribution as state incentive funds in later fiscal years.

(e) For purposes of this section:

(1) ''Private funds'' does not include any funds originating from any entity of the federal, state, city, or county government or any political subdivision thereof. Notwithstanding the provisions of this section, fees from any source for services provided may be included as private contributions by an independent living center for purposes of determining its allocation of incentive funds.

(2) ''State incentive funds'' means state funds appropriated by the Legislature for purposes of this chapter, except those funds allocated by the department pursuant to subdivisions (b) and (g) of this section.

(f) Any funds allocated under this chapter to any independent living center, other than as part of the initial allocation for each fiscal year, shall be made by contract amendment. Any contract amendment shall require the provision of services in addition to those required by the contract being amended. All those services required by contract amendment shall not be performed prior to the date the contract amendment is approved by the state.

(g) To the extent funds are appropriated by the Legislature for the purpose of providing assistive technology services described in subdivision (d) of Section 19801, those funds shall be allocated equally among independent living centers, with an equal amount to be granted to the nonprofit contractor selected by the Department of Rehabilitation to implement the federal Assistive Technology Act of 1998 (P.L. 105-394). The nonprofit contractor shall provide statewide assistive technology information and referral and serve as a resource to the independent living centers' assistive technology service programs.

(h) To the extent funds are appropriated by the Legislature, after allocation of base grant and incentive funds and assistive technology funds, remaining funds shall be allocated by the department among independent living centers on the basis of the ratio of the total of the general population in an independent living center's geographic service areas as compared to the total of the general population in all independent living centers geographic services area statewide. The department shall adopt regulations for the distribution of population funds by June 30, 1999.

SEC. 59.5. Notwithstanding Section 9112 of the Welfare and Institutions Code, the California Department of Aging shall allocate funds through the Budget Act of 2000 for expansion of information and assistance programs proportionately among area agencies on aging based upon their project senior populations 60 years of age and older as of July 1, 2000.

SEC. 61. 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. 62. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to timely implement this act for the entire 2000–01 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 109

An act to add and repeal Section 44268.5 of the Education Code, relating to credentialed employees.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 44268.5 is added to the Education Code, to read:

44268.5. (a) A teacher who does not hold a specialist credential to teach pupils with mild to moderate disabilities in a special day class setting may teach in a special day class setting that consists of pupils with mild to moderate disabilities if the teacher consents to the assignment and meets all of the following conditions:

(1) The teacher has been teaching in a special day class setting for a minimum of 10 years, as of January 1, 2000.

(2) The teacher holds one of the following:

(A) A services credential with a specialization in clinical or rehabilitative services with special class authorization.

(B) A Standard Teaching Credential with the Minor - Speech and Hearing Handicapped.

(C) A Restricted Special Education Credential - Speech and Hearing Therapy.

(D) A Limited Specialized Preparation Credential - Speech and Hearing Handicapped.

(E) A Special Secondary Credential - Correction of Speech Defects.

(F) An Exceptional Children Credential - Speech Correction and Lip Reading.

(3) Concurrently with the teaching assignment, the teacher annually completes 6 units or the equivalent thereof of professional development in core subjects.

(4) The teacher passes the reading instruction competence assessment administered by the commission pursuant to Section 44283 within one year of the beginning of the school year. Passage of the

assessment shall be considered evidence of the teacher's competence in reading instruction.

(b) 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 110

An act to add and repeal Part 22.5 (commencing with Section 44000) to Division 2 of the Revenue and Taxation Code, relating to ballast water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Part 22.5 (commencing with Section 44000) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 22.5.

44000. This part shall be known, and may be cited, as the Ballast Water Management Fee Law.

44001. For purposes of this part, ''board'' means the State Board of Equalization.

44002. The collection and administration of the fee imposed by Chapter 4 (commencing with Section 71215) of Division 36 of the Public Resources Code shall be governed by the definitions specified in Section 71200 of the Public Resources Code, unless expressly superseded by the definitions contained in this part or Part 30 (commencing with Section 55001) of Division 2.

44003. The fee imposed on owners or operators of vessels pursuant to Section 71215 of the Public Resources Code shall be administered and collected by the board in accordance with this part and Part 30 (commencing with Section 55001) of Division 2.

44004. Every person, as defined in Section 55002, who is subject to the fees imposed by Chapter 4 (commencing with Section 71215) of Division 36 of the Public Resources Code shall register with the board on forms or in a manner provided by the board.

44005. Except as authorized in Section 44005, the fee imposed on owners or operators of vessels pursuant to Section 71215 of the Public

Resources Code is due and payable to the board 30 days from the date of assessment by the board or the board's agent.

44006. In order to facilitate the administration of this part and in lieu of issuing an assessment for the fee, the board may authorize the feepayer to file a return for a monthly, quarterly, or other period set by the board. The return shall identify each vessel voyage and each port of call in California for which a ballast water report is required to be filed with the State Lands Commission, pursuant to Section 71205 of the Public Resources Code, during the period covered by the return. If the board authorizes the filing of a return, the fees must be a paid to the board by the end of the calendar month following the end of the return reporting period.

44007. All fees, interest, and penalties imposed and all fees required to be paid to the state pursuant to Section 71215 of the Public Resources Code shall be paid in the form of remittances payable to the board. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Exotic Species Control Fund.

44008. This part 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; provided, however, this part shall remain applicable for the collection of assessments, the liability for which accrued prior to January 1, 2004; the making of any refunds and the effecting of any credits; the disposition of money collected; and the commencement of any action or proceeding pursuant to this part.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because the current ballast water management fee provisions lack the administrative authority contained in this act to collect fees, and because those provisions became operative on January 1, 2000, it is necessary that this act take effect immediately.

CHAPTER 111

An act to amend Sections 1276 , 1277, and 1278 of the Code of Civil Procedure, relating to change of names.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 1276 of the Code of Civil Procedure is amended to read:

1276. (a) All applications for change of names shall be made to the superior court of the county where the person whose name is proposed to be changed resides, except as specified in subdivision (c), either (1) by petition signed by the person or, if the person is under 18 years of age, either by one of the person's parents, or by any guardian of the person, or if both parents are dead and there is no guardian of the person, then by some near relative or friend of the person or (2) as provided in Section 7638 of the Family Code.

The petition or pleading shall specify the place of birth and residence of the person, his or her present name, the name proposed, and the reason for the change of name, and shall, if neither parent of the person has signed the petition, name, as far as known to the person proposing the name change, the parents of the person and their place of residence, if living, or if neither parent is living, near relatives of the person, and their place of residence.

(b) In an action for a change of name commenced by the filing of a petition:

(1) If the person whose name is proposed to be changed is under 18 years of age and the petition is signed by only one parent, the petition shall specify the address, if known, of the other parent if living. If the petition is signed by a guardian, the petition shall specify the name and address, if known, of the parent or parents, if living, or the grandparents, if the addresses of both parents are unknown or if both parents are deceased, of the person whose name is proposed to be changed.

(2) If the person whose name is proposed to be changed is 12 years of age or over, has been relinquished to an adoption agency by his or her parent or parents, and has not been legally adopted, the petition shall be signed by the person and the adoption agency to which the person was relinquished. The near relatives of the person and their place of residence shall not be included in the petition unless they are known to the person whose name is proposed to be changed.

(c) All applications for the change of the name of a minor submitted by a guardian appointed by the juvenile court or the probate court shall be made in the appointing court.

(d) If the petition is signed by a guardian, the petition shall specify relevant information regarding the guardianship, the likelihood that the child will remain under the guardian's care until the child reaches the age of majority and information suggesting that the child will not likely be returned to the custody of his or her parents.

SEC. 2. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(c) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days prior to the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be

served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 3. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, except as provided in subdivision (b), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where the petition for a change of name alleges that the reason for the petition is to avoid domestic violence, as defined in Section 6211 of the Family Code, and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the petition, the order of the court, and the copy published pursuant to subdivision (a) shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(c) Where application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon

all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(d) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days prior to the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 4. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) Where an action for a change of name is commenced by the filing of a petition, except as provided in subdivision (b), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where the petition for a change of name alleges that the reason for the petition is to avoid domestic violence, as defined in Section 6211 of the Family Code, or stalking, as defined in Section 646.9 of the Penal Code, and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the petition, the order of the court, and the copy published pursuant to subdivision (a) shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(c) Where application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(d) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days prior to the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

SEC. 5. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivisions (b) and (c), the application shall be heard at the time designated by the court, only if objections are filed by any person who can, in those objections, show to the court good reason against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

(b) Where the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(c) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

SEC. 6. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivisions (c) and (d), the application shall be heard at the time designated by the court, only if objections are filed by any person who can, in those objections, show to the court good reason against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

(b) Where the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence in the petition are false.

(c) Where the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

SEC. 7. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) Except as provided in subdivisions (c) and (d), the application shall be heard at the time designated by the court, only if objections are filed by any person who can, in those objections, show to the court good reason against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper.

If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

(b) Where the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence or stalking in the petition are false.

(c) Where the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

SEC. 8. Section 3 of this bill incorporates amendments to Section 1277 of the Code of Civil Procedure proposed by both this bill and Section 1 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1277 of the Code of Civil Procedure (3) Section 1.5 of AB 205 does not become operative, and (4) this bill is enacted after AB 205, in which case Sections 2 and 4 of this bill shall not become operative.

SEC. 9. Section 4 of this bill incorporates amendments to Section 1277 of the Code of Civil Procedure proposed by both this bill and Section 1.5 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1277 of the Code of Civil Procedure (3) Section 1.5 of AB 205 becomes operative, and (4) this bill is enacted after AB 205, in which case Sections 2 and 3 of this bill shall not become operative.

SEC. 10. Section 6 of this bill incorporates amendments to Section 1278 of the Code of Civil Procedure proposed by both this bill and

Section 2 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1278 of the Code of Civil Procedure (3) Section 2.5 of AB 205 does not become operative, and (4) this bill is enacted after AB 205, in which case Sections 5 and 7 of this bill shall not become operative.

SEC. 11. Section 7 of this bill incorporates amendments to Section 1278 of the Code of Civil Procedure proposed by both this bill and Section 2.5 of AB 205. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 1278 of the Code of Civil Procedure (3) Section 2.5 of AB 205 becomes operative, and (4) this bill is enacted after AB 205, in which case Sections 5 and 6 of this bill shall not become operative.

CHAPTER 112

An act to amend Section 504 of the Corporations Code, relating to corporations.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 504 of the Corporations Code is amended to read:

504. (a) The provisions of Section 500 do not apply to a dividend declared by either of the following:

(1) A regulated investment company, as defined in the federal Internal Revenue Code, as amended, to the extent that the dividend is necessary to maintain the status of the corporation as a regulated investment company under the provisions of that code.

(2) A real estate investment trust, as defined in Part II of Subchapter M of Chapter 1 of Subtitle A of the federal Internal Revenue Code, as amended, to the extent that the dividend is necessary to maintain the status of the corporation as a real estate investment trust under the provisions of that code.

(b) The provisions of this chapter do not apply to any purchase or redemption of shares redeemable at the option of the holder by a registered open-end investment company under the United States Investment Company Act of 1940, so long as the right of redemption

remains unsuspended under the provisions of that statute and the articles and bylaws of the corporation.

CHAPTER 113

An act to add Division 28 (commencing with Section 37000) to the Public Resources Code, and to add Sections 17039.1, 17053.30, 23036.1, and 23630 to the Revenue and Taxation Code, relating to conservation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Division 28 (commencing with Section 37000) is added to the Public Resources Code, to read:

DIVISION 28. NATURAL HERITAGE PRESERVATION TAX CREDIT ACT OF 2000

CHAPTER 1. INTENT

37000. This division shall be known and may be cited as the ''Natural Heritage Preservation Tax Credit Act of 2000.''

37001. The Legislature finds and declares all of the following:

(a) The continued economic development of California will be fostered and improved if conflicts over the use of natural resources can be resolved without litigation or disputes.

(b) The economic development of California can be facilitated if endangered species and other forms of plants, fish, and wildlife can be protected quickly and efficiently, so that development and agricultural use can proceed on other lands.

(c) Water allocation decisions could be eased if water could be provided for fish, wildlife, and aquatic and riparian habitat without objection by other water users.

(d) The intent of this division is to accommodate economic development and resolve land use and water disputes in a manner beneficial to all people in California, and to the benefit of California environmental quality.

(e) The further intent of this division is to foster partnerships between the public and private sectors to resolve disputes and promote economic growth and environmental quality.

(f) Conservation easements protect land, keep land in private ownership and on the tax rolls, and, where appropriate, are the preferred method to protect agricultural and habitat values.

(g) The value of wildlife habitat to the state is very high, especially in the case of implementing habitat conservation plans and multispecies conservation plans.

(h) Habitat stewardship shall be assisted and rewarded, and it is in the state's interest to encourage landowners to perceive habitat as an asset rather than a liability.

(i) It is the intent of the Legislature, in enacting this division, to provide an additional tool for the protection of wildlife habitat, open space, and agricultural lands. However, there continues to be a recognized need for additional funding sources for park, wildlife, and recreation facilities, as well as for the preservation of open space and agricultural lands.

(j) It is the intent of the Legislature in enacting this division to protect wildlife habitat, open space, and agricultural lands by providing up to one hundred million dollars ($100,000,000) in tax credits for donations of qualified land.

CHAPTER 2. DEFINITIONS

37002. As used in this division, the following terms have the following meanings:

(a) ''Board'' means the Wildlife Conservation Board created pursuant to Article 2 (commencing with Section 1320) of Chapter 4 of Division 20 of the Fish and Game Code.

(b) ''Conservation easement'' means a conservation easement, as defined by Section 815.1 of the Civil Code, that is contributed in perpetuity.

(c) ''Department'' means any entity created by statute within the Resources Agency.

(d) ''Designated nonprofit organization'' means a nonprofit organization qualified under Section 501(c)(3) of Title 26 of the United States Code that has as a principal purpose the conservation of land and water resources and that is designated by a local government or a department to accept property pursuant to this division in lieu of the local government or a department. In order to be eligible to receive a donation of property pursuant to this division, a nonprofit organization shall have experience in land conservation.

(e) ''Donee'' means any of the following:

(1) A department to which a donor has applied to donate qualified property.

(2) A local government that has filed a joint application with a donor requesting approval of a donation of property to that local government.

(3) A designated nonprofit organization.

(f) ''Donor'' means a property owner who donates, or submits an application to donate, property pursuant to the program.

(g) ''Final approval'' or ''approval for acceptance'' means the board's approval of the granting of a tax credit for a donation of qualified property pursuant to the program.

(h) ''Local government'' means any city, county, city and county, special district, or any district, as defined in Section 5902 or in Division 26 (commencing with Section 35100), or any joint powers authority made up of those entities or those entities and state agencies.

(i) ''Program'' means the Natural Heritage Preservation Tax Credit Program authorized by this division.

(j) ''Property'' means any real property, and any perpetual interest therein, including land, conservation easements, and land containing water rights, as well as water rights.

(k) ''Secretary'' means the Secretary of the Resources Agency.

CHAPTER 3. NATURAL HERITAGE PRESERVATION TAX CREDIT PROGRAM

37005. The Wildlife Conservation Board shall implement the program. The board may request staff services from any department that submits an application to the board.

37006. (a) Under the program, upon approval by the board, a donor may contribute his or her qualified property to a donee and receive a tax credit for a portion of the value of the property, as provided in Sections 17053.30 and 23630 of the Revenue and Taxation Code.

(b) The board shall adopt guidelines or regulations to implement the program, including procedures for applications submitted pursuant to Chapter 4 (commencing with Section 37010) and for the evaluation of properties proposed to be contributed pursuant to the program. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the guidelines or regulations adopted pursuant to this section.

CHAPTER 4. PROCEDURES

37010. Applications shall be submitted to the donee to which the donor proposes to contribute the property.

37011. At a minimum, each application shall contain all of the following:

(a) The identification of the donor and donee.

(b) A description of the property, including documentation of how the property meets the criteria for qualified property.

(c) A property appraisal meeting the requirements of Section 170 of Title 26 of the United States Code, setting forth the fair market value of the property.

(d) (1) A certification by the donor that the contribution satisfies the requirements for a qualified contribution, pursuant to Section 37015, and that the donor received no other valuable consideration for the donation of property eligible for the tax credit.

(2) The donor shall also certify that the contribution was not, and is not, required to satisfy a condition imposed upon the donor by any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(e) A certification by the donor that the application discloses any known or suspected environmental conditions associated with the property.

37012. (a) Each donee shall evaluate applications submitted to it and prepare a plan for the board that sets forth the donee's priorities for acquisition of qualified property under the program. Consistent with the criteria established for the program, each donee may use its own priority lists and procedures in determining which properties or types of properties shall be given priority.

(b) Each donee or the board may request that the applicant supply further information reasonably necessary to allow the donee or the board to evaluate the proposed donation. The department may accept contributions of money from any taxpayer to pay or reimburse the costs of appraisal, escrow, title, and other transaction costs associated with the contribution of any particular property or set of properties, including any environmental assessments required by the department, and the costs of preparing any necessary management plan for the property or set of properties.

(c) Prior to acquiring an easement or other interest in land pursuant to this division, a public hearing shall be held by the donee, if the donee is a public agency, or by the board if the donee is a non-profit organization, in the local community. Notice shall be given by the donee 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 donee or the board.

(d) When submitting a donation of qualified property to the board for final approval, the donee shall provide the board with the fair market value of the property proposed for acceptance, based on appraisals that have been reviewed and approved by the Department of General Services.

37013. The board shall provide a list to the Joint Legislative Budget Committee and the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board, of the names, taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, a description of the donated property, and the total amount of the tax credit approved for each donation.

37014. Assets received by a donee pursuant to this division shall not be deemed transfers pursuant to Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code. Funds from the Habitat Conservation Fund, the Environmental Enhancement and Mitigation Program Fund created pursuant to Section 164.56 of the Streets and Highways Code, the State Parks and Recreation Fund, and the Wildlife Restoration Fund, may not be used to fund the tax credit authorized pursuant to this division.

CHAPTER 5. CRITERIA FOR ACCEPTANCE OF PROPERTY

37015. The board shall approve only contributions of properties that meet one or more of the following criteria:

(a) The property will help meet the goals of a habitat conservation plan, multispecies conservation plan, natural community conservation plan, or any other similar plan subsequently authorized by statute that is designed to benefit native species of plants and animals and development, including, but not limited to, protecting forests, old growth trees, or oak woodlands. In proposing and approving the acceptance of contributed property pursuant to this subdivision, the recovery benefits for listed species, the habitat value of the property, the value of the property as a wildlife corridor, and similar habitat-related considerations shall be the criteria on which the acceptance is based.

(b) The property will provide corridors or reserves for native plants and wildlife that will help improve the recovery possibilities of listed species and increase the chances that the species will recover sufficiently to be eligible to be removed from the list, or will help avoid the listing of species pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et

seq.), or protect wetlands, waterfowl habitat, or river or stream corridors, or promote the biological viability of important California species.

(c) The property interest is a perpetual conservation easement over agricultural land, or is a permanent contribution of agricultural land, that is threatened by development and is located in an unincorporated area certified by the secretary to be zoned for agricultural use by the county. Property accepted pursuant to this subdivision shall be accepted pursuant to the California Farmland Conservancy Program Act established by Division 10.2 (commencing with Section 10200), pursuant to the agricultural conservation program of the Coastal Conservancy, or pursuant to the Bay Area Conservancy Program established pursuant to Chapter 4.5 (commencing with Section 31160) of Division 21.

(d) (1) The property interest is a water right, or land with an associated water right, and the contribution of the property will help improve the chances of recovery of a listed species, will reduce the likelihood that any species of fish or other aquatic organism will be listed pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code)) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), will improve the protection of listed species, or will improve the viability and health of fish species of economic importance to the state. The agency or local government receiving the water right, or land with an associated water right, shall ensure that it shall retain title to the water right, and that the water shall be used to fulfill the purposes for which the water right or land associated with a water right is being accepted.

(2) Any contribution of a water right that includes a change in the point of diversion, place of use, or purpose of use may be made only if the proposed change will not injure any legal user of the water involved and is made in accordance with either Chapter 10 (commencing with Section 1700), or Chapter 10.5 (commencing with Section 1725), of Part 2 of Division 2 of the Water Code.

(e) The property will be used as a park or open space or will augment public access to or enjoyment of existing regional, or local park, beach, or open-space facilities, or will preserve archaeological resources.

37016. (a) The board shall accept applications under the program only upon a determination that:

(1) (A) The donation of property satisfies the requirements for a qualified contribution pursuant to Section 170 of Title 26 of the United States Code. If only a portion (either an undivided fractional interest in the entire property or one or more discrete parcels) of a proposed conveyance of property satisfies the requirements of Section 170 of Title 26 of the United States Code, or if the property is sold for less than fair market value, only that portion, or the amount representing the

difference between the amount paid by the donee and the fair market value, shall be eligible for the tax credit, to the extent permitted by Section 170(h) of Title 26 of the United States Code. The board may segregate eligible and ineligible interests in property contributed pursuant to this division. The donor shall receive no other valuable consideration for the donation of property subject to the tax credit.

(B) For purposes of this division, if the property accepted by the board was donated to satisfy a condition imposed upon the donor by any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)), that property shall not qualify for the credit provided in Section 17053.30 or 23630 of the Revenue and Taxation Code.

(2) There has been no release or threatened release of a hazardous material on the property, unless all of the following occur:

(i) A final remedy in response to the release has been approved by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of, Chapter 6.8 (commencing with Section 25300) of, or Chapter 6.85 (commencing with Section 25396) of, Division 20 of the Health and Safety Code, or the appropriate California regional water quality control board pursuant to Chapter 6.7 (commencing with Section 25280) of Division 20 of the Health and Safety Code.

(ii) The donor or donee have agreed to implement the final remedy approved pursuant to clause (i).

(iii) The donor or donee have agreed to fund and have made adequate funding available to pay for the response action, as defined by Section 25323.3 of the Health and Safety Code.

(b) Notwithstanding paragraph (2) of subdivision (a), a donation of property containing hazardous materials may be accepted under the program without satisfying the requirements of paragraph (2) of subdivision (a) if the department that is the donee determines, based on written findings from the Department of Toxic Substances Control and the California regional water quality control board with jurisdiction over the property, that the hazardous materials present will pose no substantial risk to human health or the environment and no substantial risk of liability on the donee under the conditions under which the property will be used. The Department of Toxic Substances Control and the California regional water quality control board with jurisdiction over the property shall carry out their normal due diligence when developing the written findings that will be the basis for the department's or regional

board's, whichever is applicable, written determination regarding the presence and risk of toxic materials on the property. As used in this subdivision, ''hazardous materials'' has the same meaning as contained in subdivision (d) of Section 25260 of the Health and Safety Code.

CHAPTER 6. MISCELLANEOUS

37020. (a) Nothing in this division authorizes or increases the authority of any state or local agency to use eminent domain to acquire private property.

(b) Nothing in this division diminishes existing land or water rights held by easement holders in any property proposed for donation.

37021. (a) If any property approved for acceptance pursuant to this division is later transferred by the donee, either the use of the property shall be restricted by deed to the conservation purposes for which the property was contributed pursuant to the program or the proceeds of the sale shall be used by the donee that accepted the property to acquire land in California of equal or greater value and comparable public resources values. The land acquired shall meet the criteria of Section 37015. Nothing in this division prohibits the transfer of donated property to a nonprofit organization that is qualified to manage the property for the purposes intended by this division, if the terms of this section are met. Any local government or nonprofit organization seeking to sell land pursuant to this subdivision shall first obtain the approval of the board that is the donee.

(b) Other than as provided by subdivision (a), property accepted pursuant to this division shall only be used for purposes consistent with Section 37015.

(c) (1) If any unauthorized use is made of the property after the property is donated to a local government or nonprofit organization pursuant to this program, the local government or nonprofit organization shall pay to the state the greater of the following:

(A) The fair market value of the property based on appraisals when finally accepted by the board.

(B) The fair market value of the property based on appraisals at the time of and based on the unauthorized use of the property.

(2) The department that is the donee may seek injunctive relief to prevent the unauthorized use of the property, or may assume ownership or management of the property to assure that it is used in the manner originally authorized.

(d) The board shall develop a process to monitor the uses of any land that a local government or nonprofit organization receives pursuant to this division in order to ensure those uses are in conformance with the purposes for which the property is accepted.

37022. (a) No more than a total of one hundred million dollars ($100,000,000) in tax credits may be awarded pursuant to this division.

(b) Tax credits may be awarded pursuant to this division in the fiscal years 2000–01, 2001–02, 2002–03, 2003–04, and 2004–05. No tax credits may be awarded subsequent to fiscal year 2004–05 without further statutory authorization.

SEC. 2. Section 17039.1 is added to the Revenue and Taxation Code, to read:

17039.1. Notwithstanding Section 17039 or any other provision in this part to the contrary, the credit allowed by Section 17053.30 (relating to natural heritage) may reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, but only after allowance of the credit allowed by Section 17063.

SEC. 3. Section 17053.30 is added to the Revenue and Taxation Code, to read:

17053.30. (a) There shall be allowed as a credit against the ''net tax,'' as defined in Section 17039, an amount equal to 55 percent of the fair market value of any qualified contribution made on or after January 1, 2000, and prior to December 31, 2005, by the taxpayer during the taxable year to the state, any local government, or any designated nonprofit organization, pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(b) For purposes of this section, ''qualified contribution'' means a contribution of property, as defined in Section 37002 of the Public Resources Code, that has been approved for acceptance by the Wildlife Conservation Board pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(c) In the case of any passthrough entity, the fair market value of any qualified contribution approved for acceptance under Division 28 (commencing with Section 37000) of the Public Resources Code shall be passed through to the partners or shareholders of the passthrough entity in accordance with their interest in the passthrough entity as of the date of the qualified contribution. For purposes of this subdivision, the term ''passthrough entity'' means any partnership, S corporation, or limited liability company treated as a partnership.

(d) If the credit allowed by this section exceeds the ''net tax,'' the excess may be carried over to reduce the ''net tax'' in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(e) This credit shall be in lieu of any other credit or deduction which the taxpayer may otherwise claim pursuant to this part with respect to the property or any interest therein that is contributed.

SEC. 4. Section 23036.1 is added to the Revenue and Taxation Code, to read:

23036.1. Notwithstanding Section 23036 or any other provision in this part to the contrary, the credit allowed by Section 23630 (relating to natural heritage) may reduce the ''tax'' below the tentative minimum tax, as defined by paragraph (1) of subdivision (a) of Section 23455, but only after allowance of the credit allowed by Section 23453.

SEC. 5. Section 23630 is added to the Revenue and Taxation Code, to read:

23630. (a) There shall be allowed as a credit against the ''tax,'' as defined in Section 23036, an amount equal to 55 percent of the fair market value of any qualified contribution made on or after January 1, 2000, and prior to December 31, 2005, by the taxpayer during the income year to the state, any local government, or any designated nonprofit organization, pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(b) For purposes of this section, ''qualified contribution'' means a contribution of property, as defined in Section 37002 of the Public Resources Code, that has been approved for acceptance by the Wildlife Conservation Board pursuant to Division 28 (commencing with Section 37000) of the Public Resources Code.

(c) In the case of any passthrough entity, the fair market value of any qualified contribution approved for acceptance under Division 28 (commencing with Section 37000) of the Public Resources Code shall be passed through to the partners or shareholders of the passthrough entity in accordance with their interest in the passthrough entity as of the date of the qualified contribution. For purposes of this subdivision, the term ''passthrough entity'' means any partnership or S corporation.

(d) If the credit allowed by this section exceeds the ''tax,'' the excess may be carried over to reduce the ''tax'' in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(e) This credit shall be in lieu of any other credit or deduction that the taxpayer may otherwise claim pursuant to this part with respect to the property or any interest therein that is contributed.

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 remedy critical shortages in open space and to safeguard the state's natural habitats from further degradation, it is necessary that this act take effect immediately.

CHAPTER 114

An act to amend Section 17052.6 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 17052.6 is added to the Revenue and Taxation Code, to read:

17052.6. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the ''net tax'' (as defined in Section 17039) an amount determined in accordance with Section 21 of the Internal Revenue Code, except that the amount of the credit shall be a percentage, as provided in subdivision (b) of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

If the California adjusted gross income is:	The percentage of credit is:
$40,000 or less	63%
Over $40,000 but not over $70,000	53%
Over $70,000 but not over $100,000	42%
Over $100,000	0%

(c) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(d) For purposes of this section, California adjusted gross income means California adjusted gross income as computed for purposes of Section 17041.

(e) The credit authorized by this section shall be limited to those taxpayers who, during the taxable year, maintain a household, within the meaning of Section 21(e)(1) of the Internal Revenue Code, that is located within this state.

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 115

An act to amend Section 33227 of the Food and Agricultural Code, relating to milk and milk products.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 33227 of the Food and Agricultural Code is amended to read:

33227. Each person, before engaging in the transportation of unpackaged market milk or unpackaged market milk products (bulk milk hauler), shall obtain a bulk milk hauler tanker permit from the secretary for each tanker that person uses in the bulk transport of unpackaged market milk or unpackaged market milk products. Upon receipt of an application for a permit, the secretary shall cause an inspection to be made of the bulk milk hauler's tanker for which the application is made. An inspection required for the issuance of a permit shall be conducted in a uniform and efficient manner. A permit shall be issued for each tanker that is in compliance with this division and the standards that are established pursuant to this division. The permit shall be valid for not more than one year, shall be permanently affixed in a conspicuous manner on the rear frame of the tanker for which it is issued, and shall be renewed within one year from the date of issue upon payment of an annual inspection fee. The assessment of the annual inspection fee shall be based upon the actual cost of the inspection and shall be subject to verification upon the request of a permit applicant. The permit shall conform with all requirements of the United States Food and Drug Administration Coded Memorandum implementing the enforcement provisions for permitting and inspection of bulk milk tankers.

This section shall become operative upon the adoption by the United States Food and Drug Administration of the Coded Memorandum implementing enforcement provisions for permitting and inspection of bulk milk tankers. The secretary may adopt regulations necessary to implement this section.

CHAPTER 116

An act to amend Section 760 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 760 of the Revenue and Taxation Code is amended to read:

760. (a) If any amount assessed by the board becomes delinquent on the secured roll, the tax collector may utilize those procedures for the collection of taxes on the unsecured roll to collect the amount assessed by the board.

(b) Not less than 60 days prior to initiating procedures applicable to the collection of delinquent taxes on the unsecured roll pursuant to this section, the tax collector shall send a notice of delinquency stating intent to enforce collection.

(c) The notice required by subdivision (b) shall set forth the following information:

(1) The name of the assessee.

(2) The description of the property assessed.

(3) The assessed value of the property.

(4) The fact that collection will be enforced on the unsecured roll in the amount of the tax, penalty, interest and actual costs of collection.

CHAPTER 117

An act to amend Sections 65588 and 65588.1 of the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, the dates of revisions for the housing element shall be modified as follows:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2000, for the third revision, and June 30, 2005, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2001, for the third revision, and June 30, 2006, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, the Sacramento Area Council of Governments, and the

Association of Monterey Bay Area Governments: June 30, 2002, for the third revision, and June 30, 2007, for the fourth revision.

(4) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 1999, for the third revision cycle ending June 30, 1999, and June 30, 2004, for the fourth revision.

(5) All other local governments: June 30, 2003, for the third revision, and June 30, 2008, for the fourth revision.

(6) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

SEC. 2. Section 65588.1 of the Government Code is amended to read:

65588.1. (a) The planning period of existing housing elements prepared pursuant to subdivision (b) of Section 65588 shall be extended through the housing element due date prescribed in subdivision (e) of Section 65588. Local governments shall continue to implement the housing program of existing housing elements and the annual review pursuant to Section 65400.

(b) The extension provided in this section shall not limit the existing responsibility under subdivision (b) of Section 65588 of any jurisdiction to adopt a housing element in conformance with this article.

(c) It is the intent of the Legislature that nothing in this section shall be construed to reinstate any mandates pursuant to Chapter 1143 of the Statutes of 1980 suspended by the Budget Act of 1993–94.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that adequate time is available to prepare housing element revisions with existing resources, it is necessary that this bill take effect immediately.

CHAPTER 118

An act to amend Section 6140 of the Business and Professions Code, relating to the State Bar.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 6140 of the Business and Professions Code is amended to read:

6140. (a) The board shall fix the annual membership fee for active members at a sum not exceeding three hundred eighteen dollars ($318).

(b) The annual membership fee for active members is payable on or before the first day of February of each year. If the board finds it appropriate and feasible, it may provide by rule for payment of fees on an installment basis with interest, by credit card, or other means, and may charge members choosing any alternative method of payment an additional fee to defray costs incurred by that election.

(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. This act shall become operative only if Senate Bill 1420 of the 1999–2000 Regular Session is enacted and becomes operative on or before January 1, 2001.

CHAPTER 119

An act to amend Sections 3760, 3773, and 17422 of the Family Code, relating to medical support for children.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 3760 of the Family Code is amended to read:

3760. As used in this article, unless the provision or context otherwise requires:

(a) ''Employer'' includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(b) ''Health insurance,'' ''health insurance plan,'' ''health insurance coverage,'' ''health care services,'' or ''health insurance coverage assignment'' includes vision care and dental care coverage whether the vision care or dental care coverage is part of existing health insurance coverage or is issued as a separate policy or plan.

(c) ''Health insurance coverage assignment'' or ''assignment order'' means an order made under Section 3761.

(d) ''National medical support notice'' means the notice required by Section 666(a)(19) of Title 42 of the United States Code with respect to an order made pursuant to Section 3773.

SEC. 2. Section 3773 of the Family Code is amended to read:

3773. (a) This section applies only to Title IV-D cases where support enforcement services are being provided by the local child support agency pursuant to Section 17400.

(b) After the court has ordered that a parent provide health insurance coverage, the local child support agency shall serve on the employer a national medical support notice in lieu of the health insurance coverage assignment order. The national medical support notice may be combined with the order/notice to withhold income for child support that is authorized by Section 5246.

(c) A national medical support notice shall have the same force and effect as a health insurance coverage assignment order.

(d) The obligor shall have the same right to move to quash or terminate a national medical support notice as provided in this article for a health insurance coverage assignment order.

SEC. 3. Section 17422 of the Family Code is amended to read:

17422. (a) The state medical insurance form required in Article 1 (commencing with Section 3750) of Chapter 7 of Part 1 of Division 9 shall include, but shall not be limited to, all of the following:

(1) The parent or parents' names, addresses, and social security numbers.

(2) The name and address of each parent's place of employment.

(3) The name or names, addresses, policy number or numbers, and coverage type of the medical insurance policy or policies of the parents, if any.

(4) The name, CalWORKs case number, social security number, and Title IV-E foster care case number or Medi-Cal case numbers of the parents and children covered by the medical insurance policy or policies.

(b) (1) In any action brought or enforcement proceeding instituted by the local child support agency under this division for payment of child or spousal support, a completed state medical insurance form shall be obtained and sent by the local child support agency to the Department of Child Support Services in the manner prescribed by the Department of Child Support Services.

(2) Where it has been determined under Section 3751 that health insurance coverage is not available at no or reasonable cost, the local child support agency shall seek a provision in the support order that provides for health insurance coverage should it become available at no or reasonable cost.

(3) Health insurance coverage shall be considered reasonable in cost if it is employment-related group health insurance or other group health

insurance, regardless of the service delivery mechanism. As used in this section, ''health insurance coverage'' also includes providing for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to the dependent child or children of an absent parent.

(c) (1) The local child support agency shall request employers and other groups offering health insurance coverage that is being enforced under this division to notify the local child support agency if there has been a lapse in insurance coverage. The local child support agency shall be responsible for forwarding information pertaining to the health insurance policy secured for the dependent children for whom the local child support agency is enforcing the court-ordered medical support to the custodial parent.

(2) The local child support agency shall periodically communicate with the department to determine if there have been lapses in health insurance coverage for public assistance applicants and recipients. The department shall notify the local child support agency when there has been a lapse in court-ordered insurance coverage.

(3) The local child support agency shall take appropriate action, civil or criminal, to enforce the obligation to obtain health insurance when there has been a lapse in insurance coverage or failure by the responsible parent to obtain insurance as ordered by the court.

(4) The local child support agency shall inform all individuals upon their application for child support enforcement services that medical support enforcement services are available.

CHAPTER 120

An act to amend Section 21800 of the Business and Professions Code, relating to labeling.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 21800 of the Business and Professions Code is amended to read:

21800. Every person who manufactures an optical disc for commercial purposes shall permanently mark each manufactured optical disc with an identification mark that identifies the name of the manufacturer and the state in which the optical disc was manufactured

or, alternatively, a unique identifying code that will allow law enforcement personnel to determine the name of the manufacturer and the state in which the optical disc was manufactured.

CHAPTER 121

An act to amend Section 13857 of the Health and Safety Code, relating to fire districts.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 13857 of the Health and Safety Code is amended to read:

13857. (a) Subject to subdivision (b), each member of the district board may receive compensation in an amount set by the district board not to exceed one hundred dollars ($100) for attending each meeting of the district board. The number of meetings for which a member of the board of directors may receive compensation shall not exceed four meetings in any calendar month.

(b) The district board, by ordinance adopted pursuant to Chapter 2 (commencing with Section 20200) of Division 10 of the Water Code, may increase the compensation received by the district board members above the amount prescribed by subdivision (a).

CHAPTER 122

An act to amend Section 4406 of the Commercial Code, relating to financial institutions.

[Approved by Governor July 7, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 4406 of the Commercial Code, as amended by Section 13 of Chapter 442 of the Statutes of 1997, is amended to read:

4406. (a) A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide

information in the statement of account sufficient to allow the customer reasonably to identify the items paid. The statement of account provides sufficient information if the item is described by item number, amount, and date of payment. If the bank does not return the items, it shall provide in the statement of account the telephone number that the customer may call to request an item or a legible copy thereof pursuant to subdivision (b).

(b) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank shall provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item. A bank shall provide, upon request and without charge to the customer, at least two items or a legible copy thereof with respect to each statement of account sent to the customer.

(c) If a bank sends or makes available a statement of account or items pursuant to subdivision (a), the customer shall exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer shall promptly notify the bank of the relevant facts.

(d) If the bank proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subdivision (c), the customer is precluded from asserting any of the following against the bank:

(1) The customer's unauthorized signature or any alteration on the item if the bank also proves that it suffered a loss by reason of the failure.

(2) The customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding 30 days, in which to examine the item or statement of account and notify the bank.

(e) If subdivision (d) applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subdivision (c) and the failure of the bank to exercise ordinary care contributed to the loss. If the

customer proves that the bank did not pay the item in good faith, the preclusion under subdivision (d) does not apply.

(f) Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year after the statement or items are made available to the customer (subdivision (a)) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subdivision, the payer bank may not recover for breach of warranty under Section 4208 with respect to the unauthorized signature or alteration to which the preclusion applies.

(g) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

SEC. 2. Section 4406 of the Commercial Code, as amended by Section 14 of Chapter 442 of the Statutes of 1997, is amended to read:

4406. (a) A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide information in the statement of account sufficient to allow the customer to identify the items paid. If the bank does not return the items, it shall provide in the statement of account the telephone number that the customer may call to request an item or a legible copy thereof pursuant to subdivision (b).

(b) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank shall provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item. A bank shall provide, upon request and without charge to the customer, at least two items or a legible copy thereof with respect to each statement of account sent to the customer.

(c) If a bank sends or makes available a statement of account or items pursuant to subdivision (a), the customer shall exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer shall promptly notify the bank of the relevant facts.

(d) If the bank proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subdivision (c),

the customer is precluded from asserting any of the following against the bank:

(1) The customer's unauthorized signature or any alteration on the item if the bank also proves that it suffered a loss by reason of the failure.

(2) The customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding 30 days, in which to examine the item or statement of account and notify the bank.

(e) If subdivision (d) applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subdivision (c) and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subdivision (d) does not apply.

(f) Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year after the statement or items are made available to the customer (subdivision (a)) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subdivision, the payer bank may not recover for breach of warranty under Section 4208 with respect to the unauthorized signature or alteration to which the preclusion applies.

(g) This section shall become operative on January 1, 2005.

CHAPTER 123

An act to amend Section 12050 of the Penal Code, relating to firearms.

[Approved by Governor July 8, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 12050 of the Penal Code is amended to read:

12050. (a) (1) (A) The sheriff of a county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying satisfies any one of the conditions specified in subparagraph (D) and has completed a course of training as

described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(ii) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of that city and has completed a course of training as described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(ii) Where the population of the county in which the city is located is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(C) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a person who has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or other head of a municipal police department, may issue to that person a license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person. Direct or indirect fees for the issuance of a license pursuant to this subparagraph may be waived. The fact that an applicant for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 shall be considered only for the purpose of issuing a license pursuant to this subparagraph, and shall not be considered for the purpose of issuing a license pursuant to subparagraph (A) or (B).

(D) For the purpose of subparagraph (A), the applicant shall satisfy any one of the following:

(i) Is a resident of the county or a city within the county.

(ii) Spends a substantial period of time in the applicant's principal place of employment or business in the county or a city within the county.

(E) (i) For new license applicants, the course of training may be any course acceptable to the licensing authority, shall not exceed 16 hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm. Notwithstanding this clause, the licensing authority may require a community college course certified by the Commission on Peace Officer Standards and Training, up to a maximum of 24 hours, but only if required uniformly of all license applicants without exception.

(ii) For license renewal applicants, the course of training may be any course acceptable to the licensing authority, shall be no less than four hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm. No course of training shall be required for any person certified by the licensing authority as a trainer for purposes of this subparagraph, in order for that person to renew a license issued pursuant to this section.

(2) (A) (i) Except as otherwise provided in clause (ii), subparagraphs (C) and (D) of this paragraph, and subparagraph (B) of paragraph (4) of subdivision (f), a license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed two years from the date of the license.

(ii) If the licensee's place of employment or business was the basis for issuance of the license pursuant to subparagraph (A) of paragraph (1), the license is valid for any period of time not to exceed 90 days from the date of the license. The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which he or she resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.

(B) A license issued pursuant to subparagraph (C) of paragraph (1) to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment pursuant to Section 830.6 if the four-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.

(C) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

(i) A judge of a California court of record.

(ii) A full-time court commissioner of a California court of record.

(iii) A judge of a federal court.

(iv) A magistrate of a federal court.

(D) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person's employment pursuant to Section 831.5 if the four-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.

(3) For purposes of this subdivision, a city or county may be considered an applicant's ''principal place of employment or business'' only if the applicant is physically present in the jurisdiction during a substantial part of his or her working hours for purposes of that employment or business.

(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued.

(d) A license shall not be issued if the Department of Justice determines that the person is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(e) (1) The license shall be revoked by the local licensing authority if at any time either the local licensing authority is notified by the Department of Justice that a licensee is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, or the local licensing authority determines that the person is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) If at any time the Department of Justice determines that a licensee is within a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, the department shall immediately notify the local licensing authority of the determination.

(3) If the local licensing authority revokes the license, the Department of Justice shall be notified of the revocation pursuant to Section 12053. The licensee shall also be immediately notified of the revocation in writing.

(f) (1) A person issued a license pursuant to this section may apply to the licensing authority for an amendment to the license to do one or more of the following:

(A) Add or delete authority to carry a particular pistol, revolver, or other firearm capable of being concealed upon the person.

(B) Authorize the licensee to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(C) If the population of the county is less than 200,000 persons according to the most recent federal decennial census, authorize the licensee to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) Change any restrictions or conditions on the license, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) When the licensee changes his or her address, the license shall be amended to reflect the new address and a new license shall be issued pursuant to paragraph (3).

(3) If the licensing authority amends the license, a new license shall be issued to the licensee reflecting the amendments.

(4) (A) The licensee shall notify the licensing authority in writing within 10 days of any change in the licensee's place of residence.

(B) If the license is one to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person, then it may not be revoked solely because the licensee changes his or her place of residence to another county if the licensee has not breached any conditions or restrictions set forth in the license or has not fallen into a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. However, any license issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a) shall expire 90 days after the licensee moves from the county of issuance if the licensee's place of residence was the basis for issuance of the license.

(C) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately if the licensee changes his or her place of residence to another county.

(5) An amendment to the license does not extend the original expiration date of the license and the license shall be subject to renewal at the same time as if the license had not been amended.

(6) An application to amend a license does not constitute an application for renewal of the license.

(g) Nothing in this article shall preclude the chief or other head of a municipal police department of any city from entering an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, renewals of licenses, and amendments to licenses, pursuant to this article.

CHAPTER 124

An act to amend Section 87610.1 of the Education Code, relating to community college employees.

[Approved by Governor July 8, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 87610.1 of the Education Code is amended to read:

87610.1. (a) In those districts where tenure evaluation procedures are collectively bargained pursuant to Section 3543 of the Government Code, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining on these procedures.

(b) Allegations that the community college district, in a decision to grant tenure, made a negative decision that to a reasonable person was unreasonable, or violated, misinterpreted, or misapplied, any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. Allegations that the community college district in a decision to reappoint a probationary employee violated, misinterpreted, or misapplied any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. If there is no contractual grievance procedure resulting in arbitration, these allegations shall proceed to hearing in accordance with Section 87740.

''Arbitration,'' as used in this section, refers to advisory arbitration, as well as final and binding arbitration.

(c) Any grievance brought pursuant to subdivision (b) may be filed by an employee on his or her behalf, or by the exclusive bargaining representative on behalf of an employee or a group of employees in accordance with Chapter 10.7 (commencing with Section 3540) of

Division 4 of Title 1 of the Government Code. The exclusive representative shall have no duty of fair representation with respect to taking any of these grievances to arbitration, and the employee shall be entitled to pursue a matter to arbitration with or without the representation by the exclusive representative. However, if a case proceeds to arbitration without representation by the exclusive representative, the resulting decision shall not be considered a precedent for purposes of interpreting tenure procedures and policies, or the collective bargaining agreement, but instead shall affect only the result in that particular case. When arbitrations are not initiated by the exclusive representative, the district shall require the employee submitting the grievance to file with the arbitrator or another appropriate party designated in the collective bargaining agreement, adequate security to pay the employee's share of the cost of arbitration.

(d) The arbitrator shall be without power to grant tenure, except for failure to give notice on or before March 15 pursuant to subdivision (b) of Section 87610. The arbitrator may issue an appropriate make-whole remedy, which may include, but need not be limited to, backpay and benefits, reemployment in a probationary position, and reconsideration. Procedures for reconsideration of decisions not to grant tenure shall be agreed to by the governing board and the exclusive representative of faculty pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(e) Any employees who are primarily engaged in faculty or other bargaining unit duties, who perform ''supervisory'' or ''management'' duties incidental to their performance of primary professional duties shall not be deemed supervisory or managerial employees as those terms are defined in Section 3540.1 of the Government Code, because of those duties. These duties include, but are not limited to, serving on hiring, selection, promotion, evaluation, budget development, and affirmative action committees, and making effective recommendations in connection with these activities. These employees whose duties are substantially similar to those of their fellow bargaining unit members shall not be considered supervisory or management employees.

CHAPTER 125

An act to amend Section 1366 of the Civil Code, relating to homeowner association assessments.

[Approved by Governor July 8, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 1366 of the Civil Code is amended to read:

1366. (a) Except as provided in this section, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this title. However, annual increases in regular assessments for any fiscal year, as authorized by subdivision (b), shall not be imposed unless the board has complied with subdivision (a) of Section 1365 with respect to that fiscal year, or has obtained the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, ''quorum'' means more than 50 percent of the owners of an association.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board of directors may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of owners, constituting a quorum, casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. For the purposes of this section, quorum means more than 50 percent of the owners of an association. This section does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

(1) An extraordinary expense required by an order of a court.

(2) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible where a threat to personal safety on the property is discovered.

(3) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the pro forma operating budget under Section 1365. However, prior to the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(c) Regular assessments imposed or collected to perform the obligations of an association under the governing documents or this title shall be exempt from execution by a judgment creditor of the association only to the extent necessary for the association to perform essential services, such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision.

This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by the owners of an association, constituting a quorum, casting a majority of the votes at a meeting or election of the association, or to any state tax lien, or to any lien for labor or materials supplied to the common area.

(d) The association shall provide notice by first-class mail to the owners of the separate interests of any increase in the regular or special assessments of the association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

(e) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due. If an assessment is delinquent the association may recover all of the following:

(1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.

(2) A late charge not exceeding 10 percent of the delinquent assessment or ten dollars ($10), whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.

(3) Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the assessment becomes due.

(f) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

CHAPTER 126

An act to amend Section 9203 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 8, 2000. Filed with Secretary of State July 10, 2000.]

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

SECTION 1. Section 9203 of the Public Contract Code is amended to read:

9203. (a) Payment on any contract with a local agency for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement, of any kind which will exceed in cost a total of five thousand dollars ($5,000), shall be made as the legislative body prescribes upon estimates approved by the legislative body, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the local agency, and unused. The local agency shall withhold not less than 5 percent of the contract price until final completion and acceptance of the project. However, at any time after 50 percent of the work has been completed, if the legislative body finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed.

(b) Notwithstanding the dollar limit specified in subdivision (a), a county water authority shall be subject to a twenty-five thousand dollar ($25,000) limit for purposes of subdivision (a).

CHAPTER 127

An act to amend Sections 215, 631, 1730, 1734, 1735, and 1742 of the Code of Civil Procedure, to amend Section 14038 of the Corporations Code, to amend Section 17070.70 of the Education Code, to amend Sections 12012.85, 12439, 16429.30, and 53661 of, to amend and add Section 15202 to, to add Section 19134 to, to add Chapter 1.4 (commencing with Section 15363.70) to Part 6.7 of Division 3 of Title 2 of, to add and repeal Section 13968.7 of, and to repeal Sections 16429.34, 16429.36, 16429.38, 16429.40, and 16429.49 of, the Government Code, to amend Sections 51451 and 51452 of the Health and Safety Code, to amend Section 2675.5 of, and to add Sections 3099.5 and 7929.5 to, the Labor Code, to add Section 531 to the Military and Veterans Code, to add Sections 3006 and 5024 to the Penal Code, to add Section 10299 to the Public Contract Code, to add Section 355.1 to the Public Utilities Code, and to add Section 140.3 to the Streets and Highways Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 8, 2000. Filed with
Secretary of State July 10, 2000.]

I am signing Assembly Bill No. 2866; however, I am concerned about several provisions contained in this measure.

First, I am deleting Section 10 of this measure, because it contains an appropriation. This section would authorize the Board of Control to enter into an interagency agreement with the University of California, San Francisco, to establish a victims of crime recovery center, as a pilot project until June 30, 2004, at San Francisco General Hospital; and to establish supplemental mental health rates for eligible victims. By providing for new and expanded uses of a continuously appropriated fund, Section 10 of this bill would make an appropriation.

Consistent with my strong support for victims' rights, I sustained a total of $525,000 in the 2000 Budget Act for one-time start-up costs for the victims of crime recovery center. However, I am concerned Section 10 would fund services that are normally not reimbursed and at rates that are twice the current level. The enhanced mental health reimbursement rates, funded by the Restitution Fund, which is continuously appropriated to the Board of Control, could set a potentially costly precedent that could ultimately have a negative impact on the Restitution Fund and the ability to fund services to victims on a statewide basis.

I am also deleting Section 36 to conform with this action.

Second, I am concerned about provisions included in this measure that would require an assessment of rail transportation in California and recommendations for projects. While I do not object to assessing the potential for greater connectivity of the passenger rail system with other passenger travel modes, improved public safety, and mitigating congestion on rail corridors providing passenger service, I am concerned with the bill's implication that the State should propose projects to support private freight rail capital needs.

While I recognize that movement of goods has a strong tie to the state's ability to support commerce, I also recognize that private, for-profit companies that operate freight railroads are substantially capable of funding their own capital and operating needs. I am directing the Department of Transportation to limit its rail recommendations to those which are the proper subject of state funding, prioritizing them in context of the state's other pressing transportation needs. Furthermore, I would support legislation directing the University of California to conduct the private rail assessment.

In contrast to the sweeping request for project recommendations in this bill, the Traffic Congestion Relief Plan I proposed contains funding for priority freight rail-related capital projects which will relieve congestion on highways and streets. Funds proposed for the publicly-owned North Coast Rail Authority will restore service thereby reducing the burden on Route 101. Funds proposed for an eastern extension of the Alameda Corridor project are based on the expectation that the freight rail company that participates in the Alameda Corridor project will contribute substantial funding, commensurate with the benefits it will obtain, while government funding is used substantially to reduce the conflicts between rail operations and street and highway traffic.

GRAY DAVIS, Governor

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

SECTION 1. Section 215 of the Code of Civil Procedure is amended to read:

215. (a) Beginning July 1, 2000, the fee for jurors in the superior and municipal courts, in civil and criminal cases, is fifteen dollars ($15) a day for each day's attendance as a juror after the first day.

(b) Unless a higher rate of mileage is otherwise provided by statute or by county or city and county ordinance, jurors in the superior and municipal courts shall be reimbursed for mileage at the rate of fifteen cents ($0.15) per mile for each mile actually traveled in attending court as a juror, in going only.

SEC. 2. Section 631 of the Code of Civil Procedure is amended to read:

631. (a) Trial by jury may be waived by the several parties to an issue of fact in any of the following ways:

(1) By failing to appear at the trial.

(2) By written consent filed with the clerk or judge.

(3) By oral consent, in open court, entered in the minutes or docket.

(4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.

(5) By failing to deposit with the clerk, or judge, advance jury fees 25 days prior to the date set for trial, except in unlawful detainer actions where the fees shall be deposited at least five days prior to the date set for trial, or as provided by subdivision (b). An advance jury fee deposited pursuant to this paragraph may not exceed a total of one hundred fifty dollars ($150).

(6) By failing to deposit with the clerk or judge, promptly after the impanelment of the jury, a sum equal to the mileage or transportation (if allowed by law) of the jury accrued up to that time.

(7) By failing to deposit with the clerk or judge, at the beginning of the second and each succeeding day's session a sum equal to one day's fees of the jury, and the mileage or transportation, if any.

(b) In a superior court action, other than a limited civil case, if a jury is demanded by either party in the memorandum to set the cause for trial and the party, prior to trial, by announcement or by operation of law, waives a trial by jury, then all adverse parties shall have five days following the receipt of notice of the waiver to file and serve a demand for a trial by jury and to deposit any advance jury fees that are then due.

(c) When the party who has demanded trial by jury either (1) waives the trial upon or after the assignment for trial to a specific department of the court, or upon or after the commencement of the trial, or (2) fails to deposit the fees as provided in paragraph (6) of subdivision (a), trial by jury shall be waived by the other party by either failing promptly to demand trial by jury before the judge in whose department the waiver, other than for the failure to deposit the fees, was made, or by failing promptly to deposit the fees described in paragraph (6) of subdivision (a).

(d) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

SEC. 3. Section 1730 of the Code of Civil Procedure is amended to read:

1730. (a) The Judicial Council shall establish pilot programs in four superior courts to assess the benefits of early mediation of civil cases. In two of these pilot program courts, the court shall have the authority to make mandatory referrals to mediation, pursuant to this title.

(b) The Judicial Council shall select the courts to participate in the pilot program.

(c) In addition to the pilot programs established under subdivision (a), the Judicial Council shall establish a pilot program in the Los Angeles Superior Court in 10 departments handling civil cases. These departments shall have the authority to make mandatory referrals to mediation, pursuant to this title. The court shall be responsible for paying the mediator's fees, to the extent provided in Section 1735.

SEC. 4. Section 1734 of the Code of Civil Procedure is amended to read:

1734. (a) Notwithstanding Section 68616 of the Government Code or any other provision of law, in cases subject to this title, the court may hold a status conference not earlier than 90 days and not later than 150 days after the filing of the complaint. However, at or before the conference, any party may request that the status conference be continued on the grounds that the party has been unable to serve an essential party to the proceeding.

(b) At this status conference, the court shall confer with the parties about alternative dispute resolution processes and, in Los Angeles Superior Court and the other two pilot program courts authorized to make mandatory referrals to mediation, the court may refer the parties to mediation in accordance with this title, if the court, in its discretion, determines there is good cause for ordering mediation. Before making a referral, the court shall consider the willingness of the parties to mediate.

SEC. 5. Section 1735 of the Code of Civil Procedure is amended to read:

1735. (a) Each pilot program court authorized to make mandatory referrals to mediation pursuant to this title shall establish a panel of mediators.

(b) In cases referred to mediation pursuant to this title, the parties shall select the mediator. The mediator selected by the parties need not be from the court's panel of mediators. If the parties do not select a mediator within the time period specified in the rules adopted by the Judicial Council, a mediator shall be selected by the court from the court's panel of mediators. If a mediator from the court's panel is not available to mediate a case referred pursuant to this subdivision in a timely manner, this title shall not apply.

(c) If the mediator is not from the court's panel, the court may approve compensation for the fees for that mediator's services from court funds pursuant to subdivision (d). Otherwise, the parties shall be responsible for paying any fees for the mediator's services, and each party to the proceeding shall share equally in the fee of the mediator, except where the parties agree otherwise. If the mediator is from the court's panel of mediators, the parties shall not be required to pay a fee for the mediator's services.

(d) The Judicial Council shall adopt rules to implement this section, including rules establishing requirements for the panels of mediators, the procedures to be followed in selecting a mediator, and the compensation of mediators who conduct mediations pursuant to this title.

SEC. 6. Section 1742 of the Code of Civil Procedure is amended to read:

1742. On or before January 1, 2003, the Judicial Council shall submit a report to the Legislature and to the Governor concerning the pilot programs conducted pursuant to this title. The report shall examine, among other things, the settlement rate, the timing of settlement, the litigants' satisfaction with the dispute resolution process and the costs to the litigants and the courts. The report shall also include a comparison of court ordered mediation, as provided in Section 1730, to voluntary mediation in Los Angeles County. The Judicial Council shall, by rule, require that each pilot program court provide the Judicial Council with the data that will enable the Judicial Council to submit the report required by this section.

SEC. 6.5. Section 14038 of the Corporations Code is amended to read:

14038. (a) The funds in the loan account shall be paid out to a small business development corporation loan guarantee fund by the Treasurer on warrants drawn by the Controller and requisitioned by the office, pursuant to the purposes of this chapter. The office may transfer funds allocated to the corporate fund to accounts, established solely to receive the funds, in lending institutions designated by that corporation. The lending institutions so designated shall be approved by the state for the receipt of state deposits. Interest earned on the accounts in lending institutions may be utilized by the corporations pursuant to the purposes of this chapter.

(b) Except as specified in subdivision (c), the office shall reallocate and transfer money to corporate trust accounts based on performance-based criteria. The criteria shall include, but not be limited to, the following:

(1) The default record of the corporation.

(2) The number and amount of loans guaranteed by a corporation.

(3) The number and amount of loans made by a corporation if state funds were used to make those loans.

(4) The number and amount of surety bonds guaranteed by a corporation.

Any decision made by the office pursuant to this subdivision may be appealed to the board within 15 days of notice of the proposed action. The board may repeal or modify any reallocation and transfer decisions made by the office.

(c) The criteria specified in subdivision (b) shall not apply to a corporation that has been in existence for five years or less. The office shall develop regulations specifying the basis for transferring account funds to those corporations that have been in existence for five years or less.

SEC. 7. Section 17070.70 of the Education Code is amended to read:

17070.70. (a) Title, including, but not limited to, any leasehold interest as set forth in subdivision (c), to all property acquired, constructed, or improved with funds made available under this chapter shall be held by the school district to which the board grants the funds.

(b) The applicant school district shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, school buildings.

(c) Notwithstanding Section 17009.5, construction or modernization funds made available pursuant to this chapter may be expended upon property that is leased to the applicant school district only if the project qualified for and received approval by the board, prior to November 4, 1998, pursuant to Article 4 (commencing with Section 17055), of Chapter 12.

SEC. 8. Section 12012.85 of the Government Code is amended to read:

12012.85. There is hereby created in the State Treasury a fund called the ''Indian Gaming Special Distribution Fund'' for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. These moneys shall be available for appropriation by the Legislature for the following purposes:

(a) Grants, including any administrative costs, for programs designed to address gambling addiction.

(b) Grants, including any administrative costs, for the support of state and local government agencies impacted by tribal government gaming.

(c) Compensation for regulatory costs incurred by the State Gaming Agency and the Department of Justice in connection with the implementation and administration of tribal-state gaming compacts.

(d) Disbursements for the purpose of implementing the terms of tribal labor relations ordinances promulgated in accordance with the terms of tribal-state gaming compacts ratified pursuant to Chapter 874 of the Statutes of 1999. No more than 10 percent of the funds appropriated in the Budget Act of 2000 for implementation of tribal labor relations ordinances promulgated in accordance with those compacts shall be expended in the selection of the Tribal Labor Panel. The Department of Personnel Administration shall consult with and seek input from the parties prior to any expenditure for purposes of selecting the Tribal Labor Panel. Other than the cost of selecting the Tribal Labor Panel, there shall be no further disbursements until the Tribal Labor Panel, which is selected by mutual agreement of the parties, is in place.

(e) Any other purpose specified by law.

SEC. 9. Section 12439 of the Government Code is amended to read:

12439. (a) Beginning July 1, 2001, and on each July 1 thereafter, the Controller shall abolish any state position that was vacant continuously for six consecutive monthly pay periods during the period between July 1 and June 30 of the preceding fiscal year. Those positions that were continuously vacant for six consecutive monthly pay periods during a fiscal year because of a hiring freeze in effect during part or all of the period shall also be abolished unless the need for continuing these positions is provided in written notice to, and approval is granted by, the Director of Finance.

(b) If late enactment of the annual Budget Act contributes to the abolishment of any proposed new position or positions, or if significant recruitment problems for hard-to-fill classifications, as determined by the Department of Finance, contribute to the abolishment of positions, a state agency may submit a written request for reestablishment of the positions to the Director of Finance. The positions may be reestablished upon approval granted by the Director of Finance.

(c) The only exceptions to this abolishment are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.

(d) The Controller, no later than the following August 1 of each succeeding fiscal year, shall notify the Department of Finance in writing of any authorized state position that was vacant continuously during that period.

(e) The Controller, no later than the following December 1 of each succeeding fiscal year, shall furnish the Joint Legislative Budget Committee a report on all positions as of July 1 that were unfilled

continuously for six consecutive monthly pay periods during the period between July 1 and June 30 of the preceding fiscal year.

SEC. 10. Section 13968.7 is added to the Government Code, to read:

13968.7. (a) The State Board of Control may enter into an interagency agreement with the University of California, San Francisco to establish a victims of crime recovery center at the San Francisco General Hospital to demonstrate the effectiveness of providing comprehensive and integrated services to victims of crime, subject to this article and conditions set forth by the State Board of Control. Notwithstanding subdivision (j) of Section 13965, the board may establish supplemental mental health rates for eligible victims under this article through the victims of crime recovery center. The interagency agreement between the board and the university shall set forth performance measures to evaluate annually the effectiveness of the victims of crime recovery center in providing treatment.

(b) This section shall not apply to the University of California unless the Regents of the University of California, by appropriate resolution, make this section applicable.

(c) This section shall become inoperative on June 30, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 15202 of the Government Code is amended to read:

15202. A county which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

The Controller shall not reimburse any county for costs that exceed the State Board of Control's standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures. Nothing in this section shall permit the reimbursement of costs for travel in excess of 1,000 miles on any single round trip, without the prior approval of the Attorney General.

This section shall become operative on January 1, 2005.

SEC. 12. Section 15202 is added to the Government Code, to read:

15202. (a) A county with a population of 300,000 or less, at the time of the 1980 decennial census, that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred by the county for each homicide trial or hearing, without regard

to fiscal years, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) (1) A county with a population of 200,000 or less, as of January 1, 1990, that is responsible for the cost of two or more trials or hearings within a fiscal year of a person or persons for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred in a fiscal year by the county for the conduct of the first trial within a fiscal year, and 85 percent of the costs incurred in a fiscal year by the county for the conduct of any and all subsequent trials or hearings in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(2) A county with a population of 200,000 or less, as of January 1, 1990, that, within a fiscal year, is reimbursed for costs incurred by the county for the conduct of only one trial or hearing pursuant to subdivision (a) shall be reimbursed for that one trial or hearing in subsequent fiscal years for costs incurred in those subsequent fiscal years without again being required to expend county funds equal to 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county, so long as all reimbursements to the county under this paragraph are for only that one trial or hearing.

For purposes of this subdivision, in determining the costs of a homicide trial, trials, hearing, or hearings, the costs shall include, all pretrial, trial, and posttrial costs incurred in connection with the investigation, prosecution, and defense of a homicide case or cases within a fiscal year, including, but not limited to, the costs incurred by the district attorney, sheriff, public defender, and witnesses, that were reasonably required by the court and participants in the case or cases, and other extraordinary costs associated with the investigation in homicide cases.

(c) A county with a population exceeding 300,000 at the time of the 1980 decennial census that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 80 percent of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent, and not in excess of the amount of money derived from a tax of 0.0125 of 1 percent, and for reimbursement of 100 percent of the costs incurred in excess of the amount of money derived from a tax of 0.0125 percent, of the full value of property assessed for purposes of taxation within the county.

(d) A county that is eligible for reimbursement under subdivision (a), (b), or (c) shall be reimbursed for the total actual costs incurred for a homicide trial in excess of the amount of money derived by the county

from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county, when the cost of a trial, as defined in subdivision (a), (b), or (c), exceeds 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(e) The Controller shall not reimburse any county for costs that exceed the standards for travel and per diem expenses set forth in Sections 700 to 715, inclusive, and Section 718 of Title 2 of the California Code of Regulations. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures. Nothing in this section shall permit the reimbursement of costs for travel in excess of 1,000 miles on any single round trip, without the prior approval of the Attorney General.

(f) The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section is intended to provide an equitable basis for determining the allocation to the state of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

(g) This section shall remain operative only until January 1, 2005, and as of that date is repealed.

SEC. 13. Chapter 1.4 (commencing with Section 15363.70) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1.4. FILM CALIFORNIA FIRST PROGRAM

15363.70. This chapter shall be known and may be cited as the Film California First Program.

15363.71. (a) The Legislature finds and declares as follows:

(1) The entertainment industry is one of California's leading industries in terms of employment and tax revenue.

(2) While film, television, and commercial production in California has expanded over the years, other states and countries actively compete for California production business. It is generally acknowledged that certain segments of the industry, mainly film and television production, are especially hard hit in California. The Legislature finds that this is due to assertive efforts of other states and countries, offering various incentives for filming outside of California. As a result of increased marketing efforts by other states and countries, unemployment in certain

film industry sectors and a reduction of film business has occurred within California.

(3) Recognizing the vital role the entertainment industry plays in California's economy, legislation enacted in 1985 created the California Film Commission within the Trade and Commerce Agency to facilitate, retain, and attract filming in California.

(4) In order to stop the decline of California film production, it is necessary and appropriate to assist in the underwriting of actual costs incurred by production companies to film in California and to provide opportunities for production companies and other film industry companies to lease property owned by the State of California at below market rates.

(5) Providing the funds designated under this program, and leasing property owned by the State of California at below market rates is in the public interest and serves a public purpose, and providing incentives to production companies and other film industry companies will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) It is the intent of the Legislature that funding for the program be provided from the General Fund through the annual Budget Act in the amount of fifteen million dollars ($15,000,000) per year for three years, commencing with the 2000–01 fiscal year.

15363.72. For purposes of this chapter, the following meanings shall apply:

(a) ''Agency'' means the Trade and Commerce Agency, which includes the California Film Commission.

(b) ''Film'' means any commercial production for motion picture, television, commercial, or still photography.

(c) ''Film costs'' means the usual and customary charges by a public agency connected with the production of a film, in any of the following categories:

(1) State employee costs.

(2) Federal employee costs.

(3) Federal, state, University of California, and California State University permits and rental costs.

(4) Local public entity employee costs for fire services and nonpolice public safety.

(d) ''Fund'' means the Film California First Fund, established pursuant to Section 15363.74.

(e) ''Production company'' means a company, partnership, or corporation, engaged in the production of film.

(f) ''Program'' means the Film California First Program established pursuant to this chapter.

(g) ''Public agency'' means any of the following:

(1) The State of California, and any of its agencies, departments, boards, or commissions.

(2) The federal government, and any of its agencies, departments, boards, or commissions.

(3) The University of California.

(4) The California State University.

(5) Local public entities.

(6) Any nonprofit corporation acting as an agent for the recovery of costs incurred by any of the entities listed in this subdivision.

15363.73. (a) The agency may pay and reimburse the film costs incurred by a public agency, subject to audit. Payment may be made either directly to the public agency or to the production company that has paid the public agency costs. The agency shall only reimburse actual costs incurred and may not reimburse for duplicative costs. All requests for payment of film costs shall be accompanied by an invoice from the public entity for the agency's review, at its discretion.

(b) Notwithstanding any other provision of law, the Controller shall pay any program invoice received from the agency that contains documentation detailing the film costs, and if the party requesting payment or reimbursement is a public agency, a certification that the invoice is not duplicative cost recovery, and an agreement by the public agency that the agency may audit the public agency for invoice compliance with the program requirements.

(c) Not more than three hundred thousand dollars ($300,000) shall be expended to pay or reimburse costs incurred on any one film.

15363.74. (a) The Film California First Fund is hereby established in the State Treasury.

(b) The following moneys shall be paid into the fund:

(1) Any moneys appropriated and made available by the Legislature for the purposes of this chapter.

(2) Any other moneys that may be made available to the agency for the purpose of this chapter from any other source, including the return from investments of moneys by the Treasurer.

15363.75. Procedures and guidelines promulgated to clarify and make specific provisions of the program established pursuant to this chapter, or of any other film assistance program within the agency, shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 for a period of 36 months after the effective date of this chapter. Following the 36-month exemption, the 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. 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 180 days unless the agency complies with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1, as required by subdivision (e) of Section 11346.1.

SEC. 14. Section 16429.30 of the Government Code is amended to read:

16429.30. The California Unitary Fund is hereby abolished. Any assets or liability of that fund is transferred to the General Fund. On and after January 1, 2001, all money that would have been deposited in the fund pursuant to any provision of law shall instead be deposited in the General Fund.

SEC. 15. Section 16429.34 of the Government Code is repealed.

SEC. 16. Section 16429.36 of the Government Code is repealed.

SEC. 17. Section 16429.38 of the Government Code is repealed.

SEC. 18. Section 16429.40 of the Government Code is repealed.

SEC. 19. Section 16429.49 of the Government Code is repealed.

SEC. 20. Section 19134 is added to the Government Code, to read:

19134. (a) Personal services contracts entered into by a state agency in accordance with subdivision (a) of Section 19130 for persons providing janitorial and housekeeping services, custodians, food service workers, laundry workers, window cleaners, and security guard services shall include provisions for employee benefits that are valued at least 85 percent of the state employer cost of comparable benefits provided to state employees for performing similar duties.

(b) For purposes of this section, ''benefits'' includes ''health, dental, vision, and similar group insurance benefits.''

(c) The Department of Personnel Administration shall determine annually the state employer benefit costs for workers covered under subdivision (a).

(d) This section applies to all contracts exceeding 90 days.

SEC. 21. Section 53661 of the Government Code is amended to read:

53661. (a) The Commissioner of Financial Institutions shall act as Administrator of Local Agency Security and shall be responsible for the administration of Sections 53638, 53651, 53651.2, 53651.4, 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659, 53660, 53661, 53663, 53664, 53665, 53666, and 53667.

(b) The administrator shall have the powers necessary or convenient to administer and enforce the sections specified in subdivision (a).

(c) (1) The administrator shall issue regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties, and responsibilities assigned by this article. The regulations may include regulations prescribing standards for the

valuation, marketability, and liquidity of the eligible securities of the class described in subdivision (m) of Section 53651, regulations prescribing procedures and documentation for adding, withdrawing, substituting, and holding pooled securities, and regulations prescribing the form, content, and execution of any application, report, or other document called for in any of the sections specified in subdivision (a) or in any regulation or order issued under any of those sections.

(2) The administrator, for good cause, may waive any provision of any regulation adopted pursuant to paragraph (1) or any order issued under this article, where the provision is not necessary in the public interest.

(d) The administrator may enter into any contracts or agreements as may be necessary, including joint underwriting agreements, to sell or liquidate eligible securities securing local agency deposits in the event of the failure of the depository or if the depository fails to pay all or part of the deposits of a local agency.

(e) The administrator shall require from every depository a report certified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, to determine whether there is compliance with Section 53652. These reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. These reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for the report.

(f) The administrator may have access to reports of examination made by the Comptroller of the Currency insofar as the reports relate to national banking association trust department activities which are subject to this article.

(g) (1) The administrator shall require the immediate substitution of an eligible security, where the substitution is necessary for compliance with Section 53652, if (i) the administrator determines that a security listed in Section 53651 is not qualified to secure public deposits, or (ii) a treasurer, who has deposits secured by the securities pool, provides written notice to the administrator and the administrator confirms that a security in the pool is not qualified to secure public deposits.

(2) The failure of a depository to substitute securities, where the administrator has required the substitution, shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition, shall be reported as follows:

(A) When that depository is a national bank, to the Comptroller of the Currency of the United States.

(B) When that depository is a state bank, to the Commissioner of Financial Institutions.

(C) When that depository is a federal association, to the Office of Thrift Supervision.

(D) When that depository is a savings association, to the Commissioner of Financial Institutions.

(E) When that depository is a federal credit union, to the National Credit Union Administration.

(F) When that depository is a state credit union or a federally insured industrial loan company, to the Commissioner of Financial Institutions.

(h) The administrator may require from each treasurer a registration report and at appropriate times a report stating the amount and location of each deposit together with other information deemed necessary by the administrator for effective operation of this article. The facts recited in any report from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him or her by this article and for no other purpose.

(i) (1) If, after notice and opportunity for hearing, the administrator finds that any depository or agent of depository has violated or is violating, or that there is reasonable cause to believe that any depository or agent of depository is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued under any of those sections, the administrator may order the depository or agent of depository to cease and desist from the violation or may by order suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(2) (A) If the administrator makes any of the findings set forth in paragraph (1) with respect to any depository or agent of depository and, in addition, finds that the violation or the continuation of the violation is likely to seriously prejudice the interests of treasurers, the administrator may order the depository or agent of depository to cease and desist from the violation or may suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(B) Within five business days after an order is issued under subparagraph (A), the depository or agent of depository may file with the administrator an application for a hearing on the order. The administrator shall schedule a hearing at least 30 days, but not more than 40 days, after receipt of an application for a hearing or within a shorter or longer period of time agreed to by a depository or an agent of depository. If the administrator fails to schedule the hearing within the specified or agreed

to time period, the order shall be deemed rescinded. Within 30 days after the hearing, the administrator shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded. The right of a depository or agent of depository to which an order is issued under subparagraph (A) to petition for judicial review of the order shall not be affected by the failure of the depository or agent of depository to apply to the administrator for a hearing on the order pursuant to this subparagraph.

(3) Whenever the administrator issues a cease and desist order under paragraph (1) or (2), the administrator may in the order restrict the right of the depository to withdraw securities from a security pool; and, in that event, both the depository to which the order is directed and the agent of depository which holds the security pool shall comply with the restriction.

(4) In case the administrator issues an order under paragraph (1) or (2) suspending or revoking the authorization of an agent of depository, the administrator may order the agent of depository at its own expense to transfer all pooled securities held by it to such agent of depository as the administrator may designate in the order. The agent of depository designated in the order shall accept and hold the pooled securities in accordance with this article and regulations and orders issued under this article.

(j) In the discretion of the administrator, whenever it appears to the administrator that any person has violated or is violating, or that there is reasonable cause to believe that any person is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued thereunder, the administrator may bring an action in the name of the people of the State of California in the superior court to enjoin the violation or to enforce compliance with those sections or any regulation or order issued thereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.

(k) In addition to other remedies, the administrator shall have the power and authority to impose the following sanctions for noncompliance with the sections specified in subdivision (a) after a hearing if requested by the party deemed in noncompliance. Any fine assessed pursuant to this subdivision shall be paid within 30 days after receipt of the assessment.

(1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars ($250) for each day the depository fails to maintain with the agent of depository securities as required by Section 53652.

(2) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or

willfully fails to file in the office of the administrator a written report required by that section.

(3) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (e) that a depository negligently or willfully fails to file in the office of the administrator a written report required by that subdivision.

(4) Assess and collect from an agent of depository a fine not to exceed one hundred dollars ($100) for each day the agent of depository fails to comply with any of the applicable sections specified in subdivision (a) or any applicable regulation or order issued thereunder.

(*l*) (1) In the event that a depository or agent of depository fails to pay a fine assessed by the administrator pursuant to subdivision (k) within 30 days of receipt of the assessment, the administrator may assess and collect an additional penalty of 5 percent of the fine for each month or part thereof that the payment is delinquent.

(2) If a depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers with deposits in the depository.

(3) If an agent of depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers who have authorized the agent of depository as provided in Sections 53649 and 53656, and may by order revoke the authorization of the agent of depository as provided in subdivision (i).

(m) The amendments to this section enacted by the Legislature during the 1999–2000 Regular Session shall become operative on January 1, 2001.

SEC. 22. Section 51451 of the Health and Safety Code is amended to read:

51451. The Homebuyer Down Payment Assistance Program and the Rental Assistance Program are hereby established to provide assistance in the amount of the applicable school facility fee on affordable housing developments.

(a) A Homebuyer Down Payment Assistance Program shall provide the following assistance:

(1) Downpayment assistance to the purchaser of newly constructed residential structures in a development project in economically distressed areas in the aggregate amount of school facility fees paid pursuant to one or both of Sections 65995.5 and 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section 65995 of the Government Code notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(A) The development project is located in a county with an unemployment rate that equals or exceeds 125 percent of the state unemployment rate.

(B) Five hundred or more residential structures have been constructed in the county during 1997.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(E) The sales price of the eligible residential structure does not exceed 175 percent of the median sales price of residential structures in the county during the average of the previous five years.

(2) Downpayment assistance to the purchaser of any newly constructed residential structure in the development project in the aggregate amount of school facility fees paid pursuant to one, all, or any combination of Sections 65995, 65995.5, and 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section 65995 of the Government Code notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(A) The development project is located in the state.

(B) The sales price of the eligible residential structure in the development project does not exceed one hundred thirty thousand dollars ($130,000) unless the median sales price for California as reported by the Construction Industry Research Board for new homes sold indicates that the median sales price has increased. That sales price limit shall be increased or decreased each successive year by the agency according to the percentage change in the median sales price for new homes sold from the previous year as reported by the Construction Industry Research Board.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(3) Downpayment to the purchaser of any newly constructed residential structure in a development project in the aggregate amount of school facility fees paid pursuant to one, all, or any combination of subdivision (b) of Section 65995 and Sections 65995.5 and 65995.7 of

the Government Code for the eligible residential structure if all of the following conditions are met:

(A) The assistance is provided to a qualified first-time homebuyer pursuant to Section 50068.5.

(B) The qualified first-time homebuyer meets the moderate income requirements set forth in Section 50093.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(b) A Rental Assistance Program shall provide assistance to the housing sponsor of a housing development in the aggregate amount of the school facility fees paid pursuant to one, all, or any combination of subdivision (b) of Section 65995 and Sections 65995.5 and Section 65995.7 of the Government Code that meets all of the following conditions:

(1) The units are deed restricted to very low income households and are continuously available to or occupied by very low income households at rents that do not exceed those prescribed by Section 50053, except that for the purposes of this subdivision, very low income shall be defined as 30 percent times 30 percent of the median income adjusted for family size appropriate for the unit.

(2) The number of dedicated residential units must equal or exceed the number of units supported by the reimbursed school impact fees determined by the average per unit development cost.

(3) The dedicated residential units are regulated by an appropriate local or state agency for a minimum of 30 years.

(4) A building permit for an eligible residential unit in the development project is issued by the local agency on or after January 1, 1999.

SEC. 23. Section 51452 of the Health and Safety Code is amended to read:

51452. (a) The School Facilities Fee Assistance Fund is hereby established in the State Treasury and, notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the Department of General Services for the purposes of this chapter. All repayments of disbursed funds pursuant to this chapter or any interest earned from the investment in the Surplus Money Investment Fund or any other moneys accruing to the fund from whatever source shall be returned to the fund and is available for

allocation by the California Housing Finance Agency to programs established pursuant to this chapter.

(b) The following amounts are hereby appropriated from the General Fund to the School Facilities Fee Assistance Fund for administrative costs and to make payments to purchasers of newly constructed residential structures and housing sponsors of housing developments pursuant to this chapter from that fund by fiscal year as follows:

(1) Twenty million dollars ($20,000,000) in the 1998–99 fiscal year.

(2) Forty million dollars ($40,000,000) in the 1999–2000 fiscal year.

(3) Forty million dollars ($40,000,000) in the 2000–01 fiscal year.

(4) Forty million dollars ($40,000,000) in the 2001–02 fiscal year.

(5) Twenty million dollars ($20,000,000) in the 2002–03 fiscal year, through December 31, 2002.

(c) The funds shall be distributed by fiscal year to each program in proportion to the total amounts available for each program as follows:

(1) Twenty-eight million dollars ($28,000,000) shall be available for the program set forth in paragraph (1) of subdivision (a) of Section 51451, except that any funds not expended within 18 months of their appropriation and availability may also be available for programs set forth in paragraphs (2) and (3) of subdivision (a) of Section 51451.

(2) Twenty-eight million dollars ($28,000,000) shall be available for the program set forth in paragraph (2) of subdivision (a) of Section 51451, except that any funds not expended within 18 months of their appropriation and availability may also be available for the program set forth in paragraph (3) of subdivision (a) of Section 51451.

(3) Fifty-two million dollars ($52,000,000) shall be available for the program set forth in paragraph (3) of subdivision (a) of Section 51451.

(4) Fifty-two million dollars ($52,000,000) shall be available for the program set forth in subdivision (b) of Section 51451.

SEC. 24. 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 deposited in a subaccount and applied to costs incurred by the

commissioner in administering the provisions of Section 2673.1, Section 2675, and this section, upon appropriation by the Legislature.

SEC. 25. Section 3099.5 is added to the Labor Code, to read:

3099.5. (a) The Electrician Certification Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended by the department, upon appropriation by the Legislature, for the costs of the Division of Apprenticeship Standards program to validate and certify electricians as provided by Section 3099, and shall not be used for any other purpose.

(b) The fund shall consist of the fees collected pursuant to Section 3099.

SEC. 26. Section 7929.5 is added to the Labor Code, to read:

7929.5. (a) The Permanent Amusement Ride Inspection Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended by the Department of Industrial Relations, upon appropriation by the Legislature, for the costs of the Permanent Amusement Ride Inspection Program established pursuant to Part 8.1 (commencing with Section 7920) of Division 5 of the Labor Code, and shall not be used for any other purpose.

(b) The fund shall consist of the fees collected pursuant to Section 7929.

SEC. 27. Section 531 is added to the Military and Veterans Code, to read:

531. The Adjutant General may enter into a cooperative agreement with the City of Oakland and a school district for the purposes of establishing an Oakland Military Institute. The program will be a nonresidential military institute that would provide a structured, disciplined environment that would be conducive to learning in a college preparatory environment. In addition to academic skills, students would develop leadership, self-esteem, and a strong sense of community.

SEC. 28. Section 3006 is added to the Penal Code, to read:

3006. (a) The Department of Corrections may require parolees participating in relapse prevention treatment programs or receiving medication treatments intended to prevent them from committing sex offenses to pay some or all of the costs associated with this treatment, subject to the person's ability to pay.

(b) For the purposes of this section, ''ability to pay'' means the overall capability of the person to reimburse the costs, or a portion of the costs, of providing sex offender treatment, and shall include, but shall not be limited to, consideration of all of the following factors:

(1) Present financial position.

(2) Reasonably discernible future financial position.

(3) Likelihood that the person shall be able to obtain employment after the date of parole.

(4) Any other factor or factors which may bear upon the person's financial capability to reimburse the department for the costs.

SEC. 29. Section 5024 is added to the Penal Code, to read:

5024. (a) The Legislature finds and declares that:

(1) State costs for purchasing drugs and medical supplies for the health care of offenders in state custody have grown rapidly in recent years and will amount to almost seventy-five million dollars ($75,000,000) annually in the 1999–2000 fiscal year.

(2) The Bureau of State Audits found in a January 2000 audit report that the state could save millions of dollars annually by improving its current processes for the procurement of drugs for inmate health care and by pursuing alternative procurement methods.

(3) It is the intent of the Legislature that the Department of Corrections, in cooperation with the Department of General Services and other appropriate state agencies, take prompt action to adopt cost-effective reforms in its drug and medical supply procurement processes by establishing a program to obtain rebates from drug manufacturers, implementing alternative contracting and procurement reforms, or by some combination of these steps.

(b) (1) The Director of the Department of Corrections, pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt regulations requiring manufacturers of drugs to pay the department a rebate for the purchase of drugs for offenders in state custody that is at least equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)). Any such regulation shall, at a minimum, specify the procedures for notifying drug manufacturers of the rebate requirements and for collecting rebate payments.

(2) If a rebate program is implemented, the director shall develop, maintain, and update as necessary a list of drugs to be provided under the rebate program, and establish a rate structure for reimbursement of each drug included in the rebate program. Rates shall not be less than the actual cost of the drug. However, the director may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug. In order to minimize state administrative costs and maximize state benefits for the rebate program, the director may establish a program that focuses upon obtaining rebates for those drugs that it determines are purchased by the department in relatively large volumes.

(3) If a rebate program is implemented, the department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by this subdivision. Drugs may be removed from the list for failure to pay the rebate required by this

subdivision, unless the department determines that purchase of the drug is a medical necessity or that purchase of the drug is necessary to comply with a court order to ensure the appropriate provision of quality health care to offenders in state custody.

(4) In order to minimize state administrative costs and maximize state benefits for such a rebate program, if one is implemented, the Department of Corrections may enter into interagency agreements with the Department of General Services, the State Department of Health Services, the State Department of Mental Health, or the State Department of Developmental Services, the University of California, another appropriate state department, or with more than one of those entities, for joint participation in a rebate program, collection and monitoring of necessary drug price and rebate data, the billing of manufacturers for rebates, the resolution of any disputes over rebates, and any other services necessary for the cost-effective operation of the rebate program.

(5) The Department of Corrections, separately or in cooperation with other state agencies, may contract for the services of a pharmaceutical benefits manager for any services necessary for the cost-effective operation of the rebate program, if one is implemented, or for other services to improve the contracting and procurement of drugs and medical supplies for inmate health care.

(c) Nothing in this section shall prohibit the department, as an alternative to or in addition to establishing a rebate program for drugs for inmate health care, from implementing, in cooperation with the Department of General Services and other appropriate state agencies, other cost-effective strategies for procurement of drugs and medical supplies for offenders in state custody, including, but not limited to:

(1) Improvements in the existing statewide master agreement procedures for purchasing contract and noncontract drugs at a discount from drug manufacturers.

(2) Participation by offenders in state custody infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immune deficiency syndrome (AIDS), in the AIDS Drug Assistance Program.

(3) Membership in the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) or other cooperative purchasing arrangements with other governmental entities.

(4) Greater centralization or standardization of procurement of drugs and medical supplies among individual prisons in the Department of Corrections prison system.

(d) The Bureau of State Audits shall report to the Legislature and the Governor by January 10, 2002, its findings in regard to:

(1) An evaluation of the trends in state costs for the procurement of drugs and medical supplies for offenders in state custody, and an assessment of the major factors affecting those trends.

(2) A summary of the steps taken by the Department of Corrections, the Department of General Services, and other appropriate state agencies to implement this section.

(3) An evaluation of the compliance by these state agencies with the findings and recommendations of the January 2000 Bureau of State Audits report for reform of procurement of drugs and medical supplies for offenders in state custody.

(4) Any further recommendations of the Bureau of State Audits for reform of state drug procurement practices, policies, or statutes.

SEC. 30. Section 10299 is added to the Public Contract Code, to read:

10299. (a) Notwithstanding any other provision of law, the director may consolidate the needs of multiple state agencies for information technology goods and services, and, pursuant to the procedures established in Chapter 3 (commencing with Section 12100), establish contracts, master agreements, multiple award schedules, cooperative agreements, including agreements with entities outside the state, and other types of agreements that leverage the state's buying power, for acquisitions authorized under Chapter 2 (commencing with Section 10290), Chapter 3 (commencing with Section 12100), and Chapter 3.6 (commencing with Section 12125). State agencies and local agencies may contract with suppliers awarded the contracts without further competitive bidding.

(b) The director may make the services of the department available, upon the terms and conditions agreed upon, to any school district empowered to expend public funds. These school districts may, without further competitive bidding, utilize contracts, master agreements, multiple award schedules, cooperative agreements, or other types of agreements established by the department for use by school districts for the acquisition of information technology, goods, and services. The state shall incur no financial responsibility in connection with the contracting of local agencies under this section.

SEC. 31. Section 355.1 is added to the Public Utilities Code, to read:

355.1. The commission may investigate issues associated with multiple qualified exchanges. If the commission determines that allowing electrical corporations to purchase from multiple qualified exchanges is in the public interest, the commission shall prepare and submit findings and recommendations to the Legislature on or before June 1, 2001. Prior to June 1, 2001, the commission may not implement the part of any decision authorizing electrical corporations to purchase from exchanges other than the Power Exchange. That portion of any

decision of the commission adopted prior to January 1, 2001, but after June 1, 2000, authorizing electrical corporations to purchase from multiple qualified exchanges, may not be implemented.

SEC. 32. Section 140.3 is added to the Streets and Highways Code, to read:

140.3. (a) For the purposes of this section, the following terms have the following meanings:

(1) (A) ''Mobile equipment'' means devices owned by the department by which any person or property may be propelled, moved, or drawn on or off highway and that are used for employee transportation or material movement, or for construction or maintenance work relating to transportation, including, but not limited to, passenger vehicles, heavy duty trucks, boats, trailers, motorized construction equipment, and ''slip-in'' accessories or attachments that are used by more than one functional unit.

(B) ''Mobile equipment'' does not include any of the following:

(i) Office equipment, computers, and any other stationary, nonmovable, and integral part of a transportation facility.

(ii) Passenger vehicles used to transport the public.

(iii) Aircraft or related aeronautics equipment.

(iv) Rolling stock used for intercity rail operations.

(2) ''Mobile equipment services'' includes, but is not limited to, all of the following:

(A) Use of mobile equipment and services, including, but not limited to, the purchase of new vehicles.

(B) Receiving, servicing, and equipping new mobile equipment units.

(C) Assembling components into completed mobile equipment units.

(D) Managing mobile equipment and services, including, but not limited to, payment for fuel and insurance.

(E) Repairing, rehabilitating, and maintaining mobile equipment.

(F) Disposing of used vehicles.

(3) ''Mobile equipment services cost recovery'' means revenues from assessments charged to the department's divisions and programs for mobile equipment services, or revenues from charges for equipment services provided to local transportation authorities, including, but not limited to, cost recovery for all of the following:

(A) Salaries and wages.

(B) Facility and inventory improvements.

(C) Capital outlay support projects.

(D) Overhead, depreciation, and operating expenses.

(b) The department, with the approval of the Department of Finance, shall set rates for mobile equipment services. The department shall review its rates on an annual basis and, upon approval by the Department

of Finance, shall publish a rate schedule on or before April 30 of each year. The department shall collect mobile equipment services cost recovery.

(c) The Equipment Service Fund is hereby created in the State Treasury. Notwithstanding Section 13340, all money in the fund is continuously appropriated to the department to pay for mobile equipment services.

(d) The net proceeds from mobile equipment services cost recovery shall be deposited in the fund. In addition, any moneys appropriated to the department under the annual Budget Act, or under any other act, for the use of existing mobile equipment or for the purchase of that equipment, and any moneys transferred to the department from any account within the State Transportation Fund for those purposes, may be deposited in the fund.

(e) If the unencumbered balance remaining in the fund at the end of any fiscal year is more than 25 percent of the total annual appropriation made to the fund under the most recent Budget Act, as determined by the department and the Department of Finance, the unencumbered balance, less an amount equal to the amount required to provide mobile equipment services for 60 days, shall be refunded to all programs that were assessed mobile equipment service charges during that fiscal year.

SEC. 33. (a) The Department of General Services (DGS) shall commit itself to achieve improved levels of performance, as specified in this section, by focusing its efforts on enhancing the value of the services it delivers.

(b) Pursuant to its strategic plan, DGS committed itself to providing the following two categories of services by July 1, 1998: (1) services that the Legislature or Governor requires state agencies to purchase from DGS, and (2) services that state agencies are not required to purchase from DGS, but that DGS can provide on a cost-competitive basis.

(c) Notwithstanding any other provision of law, the Director of General Services or his or her designee, in lieu of the Director of Finance, may approve DGS Form 22 and DGS Form 220, including the extension of time to expend transferred funds, the transfer of funds from one work order to another, and the Return of Funds Document.

(d) Notwithstanding Chapter 3 (commencing with Section 13940) of Part 4 of Division 3 of Title 2 of the Government Code, the Director of General Services or his or her designee may approve ''relief from accountability'' for debts owed to DGS up to five thousand dollars ($5,000) when DGS determines it cannot collect the debts or when the cost of collection exceeds the amount of the debt.

(e) Notwithstanding Section 2807 of the Penal Code, the Director of General Services or his or her designee may procure goods from the private sector even though the goods may be available from the Prison

Industry Authority, when in his or her discretion, it is cost-beneficial to do so and if the director or his or her designee continues to include the authority in soliciting quotations for goods.

(f) Notwithstanding subdivision (a) of Section 948 and Section 965 of the Government Code, the Director of General Services or his or her designee, in lieu of the Director of Finance, may certify funds for payment of all legal settlements and tort claims for which DGS already has sufficient expenditure authority and funds without the need for augmentation.

(g) Notwithstanding Chapter 7 (commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Printing for its printing needs and the Office of State Printing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government.

(h) Notwithstanding Section 14851 of the Government Code, the Office of State Printing may accept paid advertisements in state publications or in publications promoting an Office of State Printing supported project or program, except that the Office of State Printing may not accept or publish any paid political advertising.

(i) Notwithstanding Section 965.2 of the Government Code, the Director of General Services or his or her designee, in lieu of the Director of Finance, may certify funds for payment of all legal court settlements for projects funded from the Architecture Revolving Fund, if a sufficient fund balance exists in the work order to pay the claim and the payment does not require a budget augmentation to complete the project.

(j) Notwithstanding Section 14957 of the Government Code, the Director of General Services or his or her designee, in lieu of the Director of Finance, may approve the deposit of checks directly into the Architecture Revolving Fund. DGS shall notify the Department of Finance within 30 days of the date DGS makes such a deposit.

(k) This section shall remain in effect only until the effective date of the Budget Act of 2001 or June 30, 2001, whichever occurs first.

SEC. 34. (a) The Department of Veterans Affairs shall renovate the Lincoln Theater at the Yountville Veterans' Home. The renovation shall be managed by the Department of General Services. The Department of General Services shall consult with the Friends of the Lincoln Theater as to any portion of the renovation that is paid for by funds provided by that organization.

(b) The scope of this project includes the renovation of approximately 13,150 gross square feet and the addition of approximately 30,150 gross square feet to the Lincoln Theater. The project will modernize and

upgrade performing areas of the theater including new lighting, acoustical equipment, a mechanical lift, and an enlarged stage apron. Audience amenities include contouring of the theater floor to improve sightlines, refurbishing existing seating, and installation of new seating, acoustical treatment, and the addition of a balcony with elevator. The existing lobby will be demolished and replaced with an enlarged lobby/gallery and a new patio at the theater entrance. New operational support rooms as well as restrooms will be constructed on the north side of the existing building and new heating, ventilation, and air-conditioning will be installed throughout. The existing building will be seismically strengthened. Site improvements include the addition of an entry patio, landscape enhancements with tree plantings, shrubs, and ground covers.

(c) The General Fund may not be used to augment either the seismic or reimbursement-funded portions of this project. Any project cost increases beyond the authority provided in Section 13332.11 of the Government Code shall come from nonstate funds with no additional appropriations from the General Fund.

SEC. 35. (a) The Department of Transportation, in consultation with the Office of Planning and Research, shall conduct a statewide rail transportation assessment. This rail transportation assessment shall be conducted in cooperation with regional and local transportation agencies, as well as private freight railroads, and shall incorporate both a passenger portion and a freight rail systems portion. The passenger rail portion of the study shall include intercity, commuter, and urban rail systems. The study shall include a report that does all of the following:

(1) Examines how the different modes of rail transportation interconnect with each other and with other forms of transportation. The study shall investigate where there are gaps in connectivity between passenger rail systems. The report shall also make recommendations for improving connectivity for passenger and freight rail.

(2) Identifies where there are currently high levels of freight and passenger rail track congestion, as well as where agencies project future rail congestion problems. The report shall also make recommendations for capital projects that would alleviate or prevent the onset of track congestion.

(3) Reports on plans for capital projects for each rail transportation agency, both public and private, over the next 10 years. Capital projects include improvements that enhance public safety, including, but not limited to, grade crossing separations, increase track capacity, including, but not limited to, passing tracks or sidings, and increase passenger services, including, but not limited to, additional passenger cars and locomotives. The report shall also identify where plans for capital

improvements or services by one rail agency will conflict with plans for capital improvements or service with another rail agency.

(4) Examines the cost effectiveness of current funding for rail projects.

(b) Based on the findings from the issues listed in subdivision (a), the report shall estimate and document statewide unfunded capital and operating needs over the next 10 years for each respective agency.

(c) The department shall submit the report to the Legislature on or before January 1, 2002.

SEC. 36. Due to unique facts and circumstances applicable to the University of California, San Francisco and the San Francisco General Hospital, 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. The special legislation contained in Section 10 of this act is, therefore, necessarily applicable to only the University of California, San Francisco and the San Francisco General Hospital.

SEC. 37. Funding for the implementation of Section 1 of this act shall be pursuant to an appropriation of funds for such purposes in the annual Budget Act.

SEC. 38. (a) The sum of one million three hundred thousand dollars ($1,300,000) is hereby appropriated from the General Fund, in augmentation of Item 8940-001-0001 of Section 2.00 of the Budget Act of 2000, to fund the costs of the Military Department in the operation of the program established pursuant to Section 531 of the Military and Veterans Code, as added by Section 27 of this act, in the 2000–01 fiscal year. The amount appropriated herein shall only be available to the extent that it is matched on a dollar-for-dollar basis.

(b) General Fund revenues appropriated for school districts, as defined in subdivision (c) of Section 41202 of the Education Code, pursuant to Section 8 of Article XVI of the California Constitution and the total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XII B, as defined in subdivision (e) of Section 41202 of the Education Code, shall not be used as a match for funds appropriated herein.

SEC. 39. 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. 40. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the statutory changes to implement the Budget Act of 2000 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 128

An act to add Section 21201.4 to the Financial Code, relating to pawnbrokers.

[Became law without Governor's signature. Filed with Secretary of State July 11, 2000.]

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

SECTION 1. Section 21201.4 is added to the Financial Code, to read:

21201.4. Charges for the first 90 days of any loan made pursuant to the written contract required by Section 21201 shall be determined by the application of the schedule of charges contained in Section 21200.5. Charges for any period of time following the first 90 days of the loan shall be determined by application of the schedule of maximum compensation contained in Section 21200.

CHAPTER 129

An act to amend Section 56425 of, and to add Sections 25210.70a and 56429 to, the Government Code, to add Section 33492.42 to the Health and Safety Code, and to amend Section 71697 of the Water Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 2000. Filed with Secretary of State July 14, 2000.]

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

SECTION 1. Section 25210.70a is added to the Government Code, to read:

25210.70a. (a) A county service area in whose territory all or any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code is located may locate, construct, and maintain facilities and infrastructure for sewer and water pipelines or other facilities for sewer transmission and water supply or distribution systems along and across any street or public highway and on any lands that are now or hereafter owned by the state, for the purpose of providing facilities or services related to development, as defined in subdivision (e) of Section 56426, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) The facilities or services related to development may be provided by the county service area to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Notwithstanding any other provision of this code, building ordinances, zoning ordinances, and any other local ordinances, rules, and regulations of a city or other political subdivision of the state shall not apply to the location, construction, or maintenance of facilities or services related to development pursuant to this section.

SEC. 2. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county. In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(b) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall periodically review and update the adopted sphere.

(c) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public.

(d) A determination of a city's sphere of influence, provided that the sphere of influence includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, shall not preclude any other local agency, as defined in Section 54951, including the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code, in addition to that city, from providing facilities or services related to development, as defined in subdivision (e) of Section 56426, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(e) Facilities or services related to development may be provided by other local agencies to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (d). Subdivision (d) and this subdivision shall be effective whether the determination of the sphere of influence is made preceding or subsequent to January 1, 2000.

SEC. 3. Section 56429 is added to the Government Code, to read:

56429. (a) Notwithstanding Sections 56427 and 56428, a petition for removal of territory from a sphere of influence determination may be brought pursuant to this section by landowners within the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, if, at the time the petition is submitted, the area for which the petition is being requested meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) On receipt of a petition signed by landowners owning at least 25 percent of the assessed value of the land within the affected territory, the commission shall hear and consider oral or written testimony.

(c) The petition shall be placed on the agenda of the commission in accordance with subdivision (b) of Section 56428.

(d) The executive officer shall give notice of the hearing in accordance with Section 56427.

(e) From the date of filing of the petition to the conclusion of the hearing, the commission shall accept written positions from any owner of land in the unincorporated territory that is seeking removal from a city's sphere of influence.

(f) The petition to remove territory from a city's sphere of influence shall be granted and given immediate effect if the commission finds that written positions filed in favor of the petition and not withdrawn prior to the conclusion of the hearing represent landowners owning 50 percent or more of the assessed value of the land within the affected territory.

(g) No removal of territory from a city's sphere of influence that is proposed by petition and adopted pursuant to this section shall be repealed or amended except by the petition and adoption procedure provided in subdivisions (a) to (f), inclusive. In all other respects, a removal of territory from a city's sphere of influence proposed by petition and adopted pursuant to this section shall have the same force and effect as any amendment to or removal of territory from a city's sphere of influence approved by the commission. No territory removed from a city's sphere of influence pursuant to this section shall be annexed to that city, unless the territory is subsequently added to the sphere of influence of the city pursuant to the petition and adoption procedure provided in this section.

(h) Pursuant to Section 56383, the commission may establish a schedule of fees for the costs of carrying out this section.

(i) All proper expenses incurred in connection with removal of territory from a city's sphere of influence pursuant to this section shall be paid by the proponents.

SEC. 4. Section 33492.42 is added to the Health and Safety Code, to read:

33492.42. (a) The redevelopment agency referenced in Section 33492.41 may locate, construct, and maintain facilities and infrastructure for sewer and water pipelines or other facilities for sewer transmission and water supply or distribution systems along and across any street or public highway and on any lands that are now or hereafter owned by the state, for the purpose of providing facilities or services

related to development, as defined in subdivision (e) of Section 56426 of the Government Code, to or in that portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by the redevelopment agency referenced in Section 33492.41 to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Notwithstanding any other provision of the Government Code, building ordinances, zoning ordinances, and any other local ordinances, rules, and regulations of a city or other political subdivision of the state shall not apply to the location, construction, or maintenance of facilities or services related to development pursuant to this section.

SEC. 5. Section 71697 of the Water Code is amended to read:

71697. (a) A district may locate, construct, and maintain district works along and across any street or public highway and on any lands that are now or hereafter owned by the state; and a district has the same rights and privileges appertaining thereto as have been or may be granted to cities within the state. For districts whose territory includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, the exercise of this right shall not be subject to any permitting and approval requirements of any local agency other than the municipal water district that is locating, constructing, or maintaining these district works to the extent that this right is exercised for the purpose of providing facilities or services related to development, as defined in subdivision (e) of Section 56426 of the Government Code, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by the district to all or any portion of the area defined in paragraphs (1) to

(4), inclusive, of subdivision (a). Notwithstanding any other provision of the Government Code, building ordinances, zoning ordinances, and any other local ordinances, rules, and regulations of a city or other political subdivision of the state shall not apply to the location, construction, or maintenance of facilities or services related to development pursuant to this section.

SEC. 6. (a) (1) ''Local agency'' as used in this section means a local agency as defined in Section 54951 of the Government Code, including any municipal water district.

(2) ''Redevelopment agency'' as used in this section means the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code.

(3) ''Redevelopment project area'' as used in this section means the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code.

(4) ''Territory'' as used in this section means that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(A) Is unincorporated territory.

(B) Contains at least 100 acres.

(C) Is surrounded or substantially surrounded by incorporated territory.

(D) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Notwithstanding Section 1505.5 of the Public Utilities Code, Sections 1503 and 1504 of that code are not intended to, and shall not, entitle a local agency to compensation for the provision of water services to all or any part of the territory by any other local agency, private utility, or mutual water company, if that local agency is or was prohibited by ordinance, regulation, or initiative in effect on January 1, 2000, from providing or extending water services to all or any part of the territory, prior to annexation of that territory into that agency.

(c) Notwithstanding Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code, a local agency or the redevelopment agency that provides sewer services to all or any part of the territory shall not be obligated to pay compensation to another local agency providing sewer services to the same area.

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 resolve unique local development and service responsibility issues expeditiously, it is necessary that this act go into effect immediately.

CHAPTER 130

An act to amend Sections 82033, 82034, 84200, 84202.5, 84202.7, 84203.5, 87103, 87206, 87207, 89511, and 91005 of the Government Code, relating to the Political Reform Act of 1974.

[Became law without Governor's signature. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 82033 of the Government Code is amended to read:

82033. ''Interest in real property'' includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars ($2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater.

SEC. 2. Section 82034 of the Government Code is amended to read:

82034. ''Investment'' means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value equals or exceeds two thousand dollars ($2,000). The term ''investment'' does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is

created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater. The term ''parent, subsidiary or otherwise related business entity'' shall be specifically defined by regulations of the commission.

SEC. 3. Section 84200 of the Government Code is amended to read:

84200. (a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than two hundred dollars ($200) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars ($1,000).

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statements.

SEC. 4. Section 84202.5 of the Government Code is amended to read:

84202.5. (a) Any candidate or any committee pursuant to subdivision (a) of Section 82013 which makes contributions totaling ten thousand dollars ($10,000) or more in connection with an election, including a runoff election, shall file a supplemental preelection statement no later than 12 days before the election, for the period ending 17 days before the election. This statement shall be filed with each office

with which the candidate or committee filing the statement is required to file its next campaign statement pursuant to Section 84215.

(b) This section shall not apply to candidates or committees during any semiannual period in which the candidate or committee is required to file preelection statements pursuant to Section 84200.5.

(c) If a candidate or committee makes contributions totaling ten thousand dollars ($10,000) or more in connection with an election and all of those contributions are reported pursuant to Section 84200 or 84202.7 on or before the closing date specified in subdivision (a), the candidate or committee shall not be required to file additional statements for that period pursuant to this section.

SEC. 5. Section 84202.7 of the Government Code is amended to read:

84202.7. (a) Except as provided in subdivision (b), during an odd-numbered year, any committee by virtue of Section 82013 that makes contributions totaling ten thousand dollars ($10,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified below shall file campaign statements on the following dates:

(1) No later than April 30 for the period of January 1 through March 31.

(2) No later than October 31 for the period of July 1 through September 30.

(b) If a committee makes contributions totaling ten thousand dollars ($10,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified in subdivision (a), and all of those contributions are reported pursuant to Section 84202.5 on or before the time specified in subdivision (a), the committee shall not be required to file additional statements for that period pursuant to this section.

SEC. 6. Section 84203.5 of the Government Code is amended to read:

84203.5. (a) In addition to any campaign statements required by this article, if a candidate or committee has made independent expenditures totaling one thousand dollars ($1,000) or more in a calendar year to support or oppose a candidate, a measure or qualification of a measure, it shall file independent expenditure reports at the same time, covering the same periods, and in the places where the candidate or committee would be required to file campaign statements under this article, as if it were formed or existing primarily to support or oppose the candidate or measure or qualification of the measure. No independent expenditure report need be filed to cover a period for which there has been no activity to report.

(b) An independent expenditure report shall contain the following information:

(1) The name, street address, and telephone number of the candidate or committee making the expenditure and of the committee's treasurer, and the number assigned to the committee by the Secretary of State.

(2) If the report is related to a candidate, the full name of the candidate and the office and district for which the candidate seeks nomination or election. If the report is related to a measure or qualification of a measure, the number or letter of the measure, or if none has yet been assigned, a brief description of the subject matter of the measure, and the jurisdiction in which the measure is to be voted on or would be voted on if it qualified.

(3) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received less than one hundred dollars ($100).

(4) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received one hundred dollars ($100) or more.

(5) For each person to whom an expenditure of one hundred dollars ($100) or more related to the candidate or measure has been made during the period covered by the report and for each person who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the report:

(A) His or her full name.

(B) His or her street address.

(C) If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(D) The date of the expenditure.

(E) The amount of the expenditure.

(F) A brief description of the consideration for which each expenditure was made and the value of the consideration if less than the total amount of the expenditure.

(G) The cumulative amount of expenditures to such person.

(6) A list of all the filing officers with whom the committee filed its most recent campaign statement.

SEC. 7. Section 87103 of the Government Code is amended to read:

87103. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars ($2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars ($2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars ($500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

SEC. 8. Section 87206 of the Government Code is amended to read:

87206. If an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars ($2,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand dollars ($10,000) but does not exceed one hundred thousand dollars ($100,000), whether it exceeds one hundred thousand dollars ($100,000) but does not exceed one million dollars ($1,000,000), or whether it exceeds one million dollars ($1,000,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, ''interest in real property'' does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.

SEC. 9. Section 87207 of the Government Code is amended to read:

87207. (a) When income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and address of each source of income aggregating five hundred dollars ($500) or more in value, or fifty dollars ($50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars ($500) but did not exceed one thousand dollars ($1,000), whether it was in excess of one thousand dollars ($1,000) but was not greater than ten thousand dollars ($10,000), whether it was greater than ten thousand dollars ($10,000) but not greater than one hundred thousand dollars ($100,000), or whether it was greater than one hundred thousand dollars ($100,000).

(3) A description of the consideration, if any, for which the income was received.

(4) In the case of a gift, the amount and the date on which the gift was received.

(5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

(b) When the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

(c) When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

SEC. 10. Section 89511 of the Government Code is amended to read:

89511. (a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b) (1) For purposes of this chapter, ''campaign funds'' includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, ''committee'' means a controlled committee, ballot measure committee, committee opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, ''substantial personal benefit'' means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars ($200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, ''household'' includes the candidate's or elected officer's spouse, dependent children, and parents who reside with the candidate or elected officer.

SEC. 11. Section 91005 of the Government Code is amended to read:

91005. (a) Any person who makes or receives a contribution, gift, or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars ($1,000) or three times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(b) Any designated employee or public official specified in Section 87200, except an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 13. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 131

An act to amend Section 8880.24 of the Government Code, relating to the California State Lottery.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 8880.24 of the Government Code is amended to read:

8880.24. Powers and Duties of the Commission

(a) The California State Lottery Commission shall exercise all powers necessary to effectuate the purposes of this chapter. In all decisions, the commission shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Lottery.

(b) In decisions relating to advertising and promotion of the California State Lottery, the commission shall ensure that the California State Lottery complies with both the letter and spirit of the laws governing false and misleading advertising, including Section 17500 et seq. of the Business and Professions Code. The commission shall also ensure that the overall estimated odds of winning some prize or prizes in a particular lottery game are posted on all television and print advertising, exclusive of outdoor advertising displays, signs, or banners, related to that game.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984 enacted by Proposition 37 at the November 6, 1984, general election.

CHAPTER 132

An act to amend Section 13030 of the Education Code, relating to public education.

[Approved by Governor July 19, 2000. Filed with
Secretary of State July 19, 2000.]

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

SECTION 1. Section 13030 of the Education Code is amended to read:

13030. (a) It is the intent of the Legislature that the sum of one million dollars ($1,000,000) be annually appropriated for each of the fiscal years 2000–01, 2001–02, and 2002–03, from the General Fund to the State Librarian, for purposes of this chapter.

(b) Subject to an appropriation in the annual Budget Act or other measure for this purpose, the State Librarian shall review and identify programs with similar goals that may be combined with this project in the future.

(c) Subject to an appropriation in the annual Budget Act or other measure for this purpose, the State Librarian shall report to the Legislature by November 1, 2004 on the progress of the program and on the results of the review required by subdivision (b).

CHAPTER 133

An act to amend Section 70050.5 of the Government Code, relating to phonographic reporters.

[Approved by Governor July 19, 2000. Filed with
Secretary of State July 19, 2000.]

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

SECTION 1. Section 70050.5 of the Government Code is amended to read:

70050.5. In each county with a population of 730,000 and under 850,000, as determined by the 1960 federal census, the monthly salary of the regular official phonographic reporters shall be not less than that paid to regular official phonographic reporters of the superior court in counties having a population of over 6,000,000. Pro tempore reporters in each county with a population of 730,000 and under 850,000, as determined by the 1960 federal census, shall receive a daily per diem in an amount not less than that paid to pro tempore superior court reporters in counties having a population of over 6,000,000.

Length of employment for compensation purposes under this section shall mean length of employment in either the municipal court or superior court of such county.

All regular official phonographic reporters appointed prior to the effective date of this section shall receive not less than the monthly salary set forth in the maximum step of the pertinent salary schedule used in counties having a population of over 6,000,000.

Official phonographic reporters appointed subsequent to the effective date of this section shall be compensated in an amount that is not less than whatever step of the pertinent salary schedule used in counties with a population of over 6,000,000 the majority of the judges of such court may deem appropriate.

CHAPTER 134

An act to amend Sections 4.1, 4.2, and 4.5 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973), and to amend Sections 4.1, 4.2, and 4.3 of the Central Delta Water Agency Act (Chapter 113 of the Statutes of 1973), relating to water.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 4.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973) is amended to read:

Sec. 4.1. (a) The general purposes of the agency shall be to take all reasonable and lawful actions to negotiate, enter into, execute, amend, administer, perform, and enforce one or more agreements with the United States, the State of California, or other entities, and to pursue legislative and legal actions that have for their general purposes either of the following:

(1) To protect the water supply of the lands within the agency against intrusion of ocean salinity.

(2) To assure the lands within the agency a dependable supply of water of suitable quality sufficient to meet present and future needs.

(b) The agency may also undertake activities to advise and assist landowners and local districts within the agency in reclamation and flood control matters.

SEC. 2. Section 4.2 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973) is amended to read:

Sec. 4.2. The agency shall also have the following powers:

(a) To have perpetual succession.

(b) To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease, or dispose of, real and personal property of every kind within or without the agency.

(e) To borrow money and incur indebtedness; provided, however, that with the exception of agreements provided for in Section 4.1, the agency shall not at any one time incur indebtedness in excess of the ordinary annual income and revenues of the agency; except that the agency may borrow money for its expenses incurred during the period until the agency first receives tax money.

(f) To employ labor and contract for services.

(g) To cause assessments to be levied, in the manner hereinafter provided, for the purpose of paying expenses and obligations of the agency, including its formation expenses and any warrants issued therefor.

(h) To act jointly with or cooperate with the United States and with the State of California to the end that the purposes and activities of the agency may be fully and economically performed.

(i) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(j) To carry on technical and other investigations of all kinds necessary or convenient for the accomplishment of the purposes or powers of the agency.

(k) To do any and every lawful act necessary in order that a sufficient in-channel water supply of suitable quality may be available for any present or future beneficial use or uses of the lands within the agency.

SEC. 3. Section 4.5 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973) is amended to read:

Sec. 4.5. (a) The agency shall have no authority or power to bind, prejudice, impair, restrict, or limit water rights within the agency.

(b) The agency may assist landowners, districts, and water right holders within the agency's boundaries in the protection of vested water rights and may represent the interests of those parties in water right proceedings and related proceedings before the State Water Resources Control Board and the courts of this state and the United States, to carry out the purposes of the agency.

SEC. 4. Section 4.1 of the Central Delta Water Agency Act (Chapter 113 of the Statutes of 1973) is amended to read:

Sec. 4.1. (a) The general purposes of the agency shall be to take all reasonable and lawful actions, including to negotiate, enter into, execute, amend, administer, perform, and enforce one or more

agreements with the United States, the State of California, or other entities, and to pursue legislative and legal actions that have for their general purposes either of the following:

(1) To protect the water supply of the lands within the agency against intrusion of ocean salinity; and

(2) To assure the lands within the agency a dependable supply of water of suitable quality sufficient to meet present and future needs.

(b) The agency may also undertake activities to assist landowners and local districts within the agency in reclamation and flood control matters.

SEC. 5. Section 4.2 of the Central Delta Water Agency Act (Chapter 113 of the Statutes of 1973) is amended to read:

Sec. 4.2. (a) The agency shall have no authority or power to bind, prejudice, impair, restrict, or limit vested water rights within the agency.

(b) The agency may assist landowners, districts, and water right holders within the agency's boundaries in the protection of vested water rights and may represent the interests of those parties in water right proceedings and related proceedings before the State Water Resources Control Board and the courts of this state and the United States, to carry out the purposes of the agency.

SEC. 6. Section 4.3 of the Central Delta Water Agency Act (Chapter 113 of the Statutes of 1973) is amended to read:

Sec. 4.3. The agency shall also have the following powers:

(a) To have perpetual succession.

(b) To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease, or dispose of real and personal property of every kind within or without the agency.

(e) To borrow money and incur indebtedness; provided, however, that with the exception of agreements provided for in Section 4.1, the agency shall not at any one time incur indebtedness in excess of the ordinary annual income and revenues of the agency; except that the agency may borrow money for its expenses incurred during the period until the agency first receives tax money.

(f) To employ labor and contract for services.

(g) To cause assessments to be levied, in the manner hereinafter provided, for the purpose of paying expenses and obligations of the agency, including its formation expenses and any warrants issued therefor.

(h) To act jointly with or cooperate with the United States and with the State of California to the end that the purposes and activities of the agency may be fully and economically performed.

(i) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(j) To carry on technical and other investigations of all kinds necessary or convenient for the accomplishment of the purposes or powers of the agency.

(k) To do any and every lawful act necessary in order that a sufficient in-channel water supply of suitable quality may be available for any present or future beneficial use or uses of the lands within the agency.

CHAPTER 135

An act to amend Sections 651, 680, 4112, 4982, 4998, 4998.2, 4998.5, 4998.6, 6086.65, and 17537.11 of the Business and Professions Code, to amend Sections 1102.2, 1103, and 2924c of the Civil Code, to amend Sections 131.4, 703.140, and 704.115 of the Code of Civil Procedure, amend Sections 1201, 2210, 2502, 9528, and 9706 of the Commercial Code, to amend Sections 5222, 7236, 14000, 14030, 14030.1, 14035, 14036, and 25207 of the Corporations Code, to amend Sections 1209, 17210, 17284.5, 17620, 23812, 24255, 35012, 35160.5, 37252, 44225.6, 44227, 44259, 44275.3, 44424, 47611.5, 47612.5, 51871.5, 54685.2, 54685.3, 60200.2, 60855, 66293, and 81149 of, to amend and renumber Section 39006 of, and to amend and renumber the heading of Chapter 8 (commencing with Section 60850) of Part 33 of Division 4 of Title 2 of, the Education Code, to amend Section 8040 of the Elections Code, to amend Sections 243, 2040, 3021, 4065, and 5002 of the Family Code, to amend Section 18210 of the Financial Code, to amend Section 55702 of the Food and Agricultural Code, to amend Sections 3540.1, 7222, 15346.9, 18935, 19827.3, 20395, 20397, 20677, 21070.5, 21071, 21073.7, 21370, 21572, 22825.01, 22875, 31469.5, 51298, 53601, 53635, 54985, 69915, 72114.2, and 91007 of the Government Code, to amend Sections 1357.50, 1368, 1368.04, 1370.4, 1374.32, 1386, 1507.3, 1596.7927, 25390.4, 32121.7, 33333.6, 33334.17, 44287, 51451, 104550, 104556, 104557, 112040, 115813, and 128375 of, and to amend and renumber Section 13933 of, the Health and Safety Code, to amend Sections 384, 791.02, 1035, 1765.1, 1874.81, 10123.68, 10145.3, 10169, 10169.2, 10176.61, 11629.92, and 12967 of, and to amend and renumber Sections 1785.89, 10140, 10141, and 12698 of, the Insurance Code, to amend Sections 1174.5, 1777.5, 1777.7, 3762, 6394.5, 6429, 6434, and 6650 of the Labor Code, to amend Sections 273.84, 296.1, 487c, 666, 830.32, 1463, 2962, 6129, 11166.3, 11170.6, 12000, and 13510 of the Penal Code, to amend Section 2357 of the Probate Code, to amend Section 12102 of the Public Contract Code, to

amend Sections 2715.5, 31164, and 42923 of the Public Resources Code, to amend Sections 237, 2512, 2613, 6471, and 6472 of the Revenue and Taxation Code, to amend Sections 426, 1666, 5204, 9980, 12808, 12815, 13377, 16020.1, 21051, 22511.56, 34505.9, and 35790.1 of the Vehicle Code, to amend Sections 361.5, 727.3, 727.31, 827, 1788, 1789.5, 9564, 14105.26, and 25002 of the Welfare and Institutions Code, and to amend Section 1 of Chapter 868 of the Statutes of 1998, and Section 7 of Chapter 84 of the Statutes of 1999, relating to maintenance of the codes.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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, 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 (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) 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 and 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) 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 businesses 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 680 of the Business and Professions Code is amended to read:

680. (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title ''nurse'' in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Mental Health, or the State Department of Health Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Mental Health, and the State Department of Health Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, ''health care practitioner'' means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

SEC. 3. Section 4112 of the Business and Professions Code is amended to read:

4112. (a) Any pharmacy located outside this state that ships, mails, or delivers, in any manner, controlled substances, dangerous drugs, or dangerous devices into this state shall be considered a nonresident pharmacy.

(b) All nonresident pharmacies shall register with the board. The board may register a nonresident pharmacy that is organized as a limited liability company in the state in which it is licensed.

(c) A nonresident pharmacy shall disclose to the board the location, names, and titles of (1) its agent for service of process in this state, (2) all principal corporate officers, if any, (3) all general partners, if any, and (4) all pharmacists who are dispensing controlled substances, dangerous drugs, or dangerous devices to residents of this state. A report containing this information shall be made on an annual basis and within 30 days after any change of office, corporate officer, partner, or pharmacist.

(d) All nonresident pharmacies shall comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

(e) All nonresident pharmacies shall maintain records of controlled substances, dangerous drugs, or dangerous devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(f) Any pharmacy subject to this section shall, during its regular hours of operation, but not less than six days per week, and for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(g) The board shall adopt regulations that apply the same requirements or standards for oral consultation to a nonresident pharmacy that operates pursuant to this section and ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state, as are applied to an in-state pharmacy that operates pursuant to Section 4037 when the pharmacy ships, mails, or delivers any controlled substances, dangerous drugs, or dangerous devices to residents of this state. The board shall not adopt any regulations that require face-to-face consultation for a prescription that is shipped, mailed, or delivered to the patient. The regulations adopted pursuant to this subdivision shall not result in any unnecessary delay in patients receiving their medication.

(h) The registration fee shall be the fee specified in subdivision (a) of Section 4400.

(i) The registration requirements of this section shall apply only to a nonresident pharmacy that ships, mails, or delivers controlled

substances, dangerous drugs, and dangerous devices into this state pursuant to a prescription.

(j) Nothing in this section shall be construed to authorize the dispensing of contact lenses by nonresident pharmacists except as provided by Section 4124.

SEC. 4. 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 oneself 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 oneself 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 himself or herself 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. 5. 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 worker corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 6. Section 4998.2 of the Business and Professions Code is amended to read:

4998.2. Notwithstanding Section 4996, the name of a licensed clinical social worker 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 worker 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 worker corporation.

SEC. 7. Section 4998.5 of the Business and Professions Code is amended to read:

4998.5. A licensed clinical social worker 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. 8. Section 4998.6 of the Business and Professions Code is amended 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 worker corporation shall include a provision whereby the capital stock of that corporation owned by a disqualified person, as defined in the Moscone-Knox Professional Corporation Act, or a deceased person shall be sold to the corporation or to the remaining shareholders of that corporation within the time that 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. 9. Section 6086.65 of the Business and Professions Code is amended to read:

6086.65. (a) There is a Review Department of the State Bar Court that consists of the Presiding Judge of the State Bar Court and two

Review Department Judges appointed by the Supreme Court. The judges of the Review Department shall be appointed and subject to discipline as provided in subdivision (a) of Section 6079.1, shall be qualified as provided in subdivision (b) of Section 6079.1, and shall be compensated as provided for the Presiding Judge in subdivision (d) of Section 6079.1. However, the two Review Department Judges may be appointed to, and paid as, positions occupying one-half the time and pay of the Presiding Judge. Candidates shall be rated and screened by the board as provided in subdivision (c) of Section 6079.1.

(b) The board may fix a date no later than September 1, 1989, on which all proceedings pending before the Review Department shall be decided by judges of the Review Department appointed under this section. The Review Department in existence on June 30, 1989, may continue on and after July 1, 1989, to exercise the duties and powers under prior Section 6086.6 as to any matter assigned to it prior to the date set by the board pursuant to this section.

(c) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven persons, including one person who has never been a member of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(d) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. Unless otherwise provided by a rule of practice or procedure approved by the Supreme Court, the party requesting review shall have the burden of showing one of the following:

(1) The Hearing Department did not proceed in the manner required by law.

(2) The findings of the Hearing Department are not supported by substantial evidence.

(3) The decision or recommendation of the Hearing Department is clearly erroneous.

(e) This section shall become operative on November 1, 2000.

SEC. 10. Section 17537.11 of the Business and Professions Code is amended to read:

17537.11. (a) It is unlawful for any person to offer a coupon that is in any manner untrue or misleading.

(b) It is unlawful for any person to offer a coupon described as ''free'' or as a ''gift,'' ''prize,'' or other similar term if (1) the recipient of the coupon is required to pay money or buy any goods or services to obtain or use the coupon, and (2) the person offering the coupon or anyone

honoring the coupon made the majority of his or her sales in the preceding year in connection with one or more ''free,'' ''gift,'' ''prize,'' or similarly described coupons.

(c) For purposes of this section:

(1) ''Coupon'' includes any coupon, certificate, document, discount, or similar matter that purports to entitle the user of the coupon to obtain goods or services for free or for a special or reduced price.

(2) ''Sale'' includes lease or rent.

SEC. 11. Section 1102.2 of the Civil Code is amended to read:

1102.2. This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure, transfers to the legal owner or lienholder of a manufactured home or mobilehome by a registered owner or successor in interest who is in default, or transfers by reason of any foreclosure of a security interest in a manufactured home or mobilehome.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. This exemption shall not apply to a transfer if the trustee is a natural person who is sole trustee of a revocable trust and he or she is a former owner of the property or an occupant in possession of the property within the preceding year.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.

SEC. 12. Section 1103 of the Civil Code is amended to read:

1103. (a) Except as provided in Section 1103.1, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, that is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, that is classified as personal property intended for use as a residence, if the real property on which the manufactured home or mobilehome is located is real property described in subdivision (c).

(c) This article shall apply to the transactions described in subdivisions (a) and (b) only if the transferor or his or her agent are required by one or more of the following to disclose the property's location within a hazard zone:

(1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone ''A'' or ''V'') designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding, designated pursuant to Section 8589.5 of the Government Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

(4) A person who is acting as an agent for a transferor of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(5) A person who is acting as an agent for a transferor of real property that is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a seismic hazard zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(6) A transferor of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.

SEC. 13. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property or an estate for years therein hereafter executed has, prior to the maturity date fixed in that obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of that obligation or of the deed of trust or mortgage, taxes, assessments, premiums for insurance, or advances made by beneficiary or mortgagee in accordance with the terms of that obligation or of the deed of trust or mortgage, the trustor or mortgagor or his or her successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within the period specified in subdivision (e), if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount due, at the time payment is tendered, with respect to (A) all amounts of principal, interest, taxes, assessments, insurance premiums, or advances actually

known by the beneficiary to be, and that are, in default and shown in the notice of default, under the terms of the deed of trust or mortgage and the obligation secured thereby, (B) all amounts in default on recurring obligations not shown in the notice of default, and (C) all reasonable costs and expenses, subject to subdivision (c), which are actually incurred in enforcing the terms of the obligation, deed of trust, or mortgage, and trustee's or attorney's fees, subject to subdivision (d), other than the portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if the acceleration had not occurred. This section does not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the Public Utilities Code. For the purposes of this subdivision, the term ''recurring obligation'' means all amounts of principal and interest on the loan, or rents, subject to the deed of trust or mortgage in default due after the notice of default is recorded; all amounts of principal and interest or rents advanced on senior liens or leaseholds which are advanced after the recordation of the notice of default; and payments of taxes, assessments, and hazard insurance advanced after recordation of the notice of default. Where the beneficiary or mortgagee has made no advances on defaults which would constitute recurring obligations, the beneficiary or mortgagee may require the trustor or mortgagor to provide reliable written evidence that the amounts have been paid prior to reinstatement.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, the beneficiary or mortgagee or the agent for the beneficiary or mortgagee shall, within 21 days following the reinstatement, execute and deliver to the trustee a notice of rescission which rescinds the declaration of default and demand for sale and advises the trustee of the date of reinstatement. The trustee shall cause the notice of rescission to be recorded within 30 days of receipt of the notice of rescission and of all allowable fees and costs.

No charge, except for the recording fee, shall be made against the trustor or mortgagor for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is _____ as of _____
(Date)

and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a

longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____
(Name of beneficiary or mortgagee)

_____
(Mailing address)

_____
(Telephone)

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]''

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of the contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or the assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (c) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, including certified and express mail charges, publishing, and posting notices required by Sections 2924 to 2924i, inclusive, postponement pursuant to Section 2924g not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee. For purposes of this subdivision, a trustee or beneficiary may purchase a trustee's sale guarantee at a rate meeting the standards contained in Sections 12401.1 and 12401.3 of the Insurance Code.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed two hundred forty dollars ($240) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where the charge does not exceed the amounts authorized herein. For purposes of this subdivision, the unpaid principal sum secured shall be determined as of the date the notice of default is recorded.

(e) Reinstatement of a monetary default under the terms of an obligation secured by a deed of trust, or mortgage may be made at any time within the period commencing with the date of recordation of the notice of default until five business days prior to the date of sale set forth in the initial recorded notice of sale.

In the event the sale does not take place on the date set forth in the initial recorded notice of sale or a subsequent recorded notice of sale is required to be given, the right of reinstatement shall be revived as of the date of recordation of the subsequent notice of sale, and shall continue from that date until five business days prior to the date of sale set forth in the subsequently recorded notice of sale.

In the event the date of sale is postponed on the date of sale set forth in either an initial or any subsequent notice of sale, or is postponed on the date declared for sale at an immediately preceding postponement of sale, and, the postponement is for a period which exceeds five business days from the date set forth in the notice of sale, or declared at the time of postponement, then the right of reinstatement is revived as of the date of postponement and shall continue from that date until five business days prior to the date of sale declared at the time of the postponement.

Nothing contained herein shall give rise to a right of reinstatement during the period of five business days prior to the date of sale, whether the date of sale is noticed in a notice of sale or declared at a postponement of sale.

Pursuant to the terms of this subdivision, no beneficiary, trustee, mortgagee, or their agents or successors shall be liable in any manner to a trustor, mortgagor, their agents or successors or any beneficiary under a subordinate deed of trust or mortgage or any other person having a subordinate lien or encumbrance of record thereon for the failure to allow a reinstatement of the obligation secured by a deed of trust or mortgage during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created by this section. Any right of reinstatement created by this section is terminated five business days prior to the date of sale set forth in the initial date of sale, and is revived only as prescribed herein and only as of the date set forth herein.

As used in this subdivision, the term ''business day'' has the same meaning as specified in Section 9.

SEC. 14. Section 131.4 of the Code of Civil Procedure is amended to read:

131.4. Any of the duties of the probation officer may be performed by a deputy probation officer and shall be performed by him or her whenever detailed to perform the same by the probation officer; and it shall be the duty of the probation officer to see that the deputy probation officer performs his or her duties.

Such probation officer and each deputy probation officer shall have, as to the person so committed to the care of such probation officer or deputy probation officer, the powers of a peace officer.

The probation officers and deputy probation officers shall serve as such probation officers in all courts having original jurisdiction of criminal actions in this state.

SEC. 15. Section 703.140 of the Code of Civil Procedure is amended to read:

703.140. (a) In a case under Title 11 of the United States Code, all of the exemptions provided by this chapter, including the homestead exemption, other than the provisions of subdivision (b) are applicable

regardless of whether there is a money judgment against the debtor or whether a money judgment is being enforced by execution sale or any other procedure, but the exemptions provided by subdivision (b) may be elected in lieu of all other exemptions provided by this chapter, as follows:

(1) If a husband and wife are joined in the petition, they jointly may elect to utilize the applicable exemption provisions of this chapter other than the provisions of subdivision (b), or to utilize the applicable exemptions set forth in subdivision (b), but not both.

(2) If the petition is filed individually, and not jointly, for a husband or a wife, the exemptions provided by this chapter other than the provisions of subdivision (b) are applicable, except that, if both the husband and the wife effectively waive in writing the right to claim, during the period the case commenced by filing the petition is pending, the exemptions provided by the applicable exemption provisions of this chapter, other than subdivision (b), in any case commenced by filing a petition for either of them under Title 11 of the United States Code, then they may elect to instead utilize the applicable exemptions set forth in subdivision (b).

(3) If the petition is filed for an unmarried person, that person may elect to utilize the applicable exemption provisions of this chapter other than subdivision (b), or to utilize the applicable exemptions set forth in subdivision (b), but not both.

(b) The following exemptions may be elected as provided in subdivision (a):

(1) The debtor's aggregate interest, not to exceed fifteen thousand dollars ($15,000) in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor.

(2) The debtor's interest, not to exceed two thousand four hundred dollars ($2,400) in value, in one motor vehicle.

(3) The debtor's interest, not to exceed four hundred dollars ($400) in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(4) The debtor's aggregate interest, not to exceed one thousand dollars ($1,000) in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(5) The debtor's aggregate interest, not to exceed in value eight hundred dollars ($800) plus any unused amount of the exemption provided under paragraph (1), in any property.

(6) The debtor's aggregate interest, not to exceed one thousand five hundred dollars ($1,500) in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(8) The debtor's aggregate interest, not to exceed in value eight thousand dollars ($8,000), in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(9) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(10) The debtor's right to receive any of the following:

(A) A social security benefit, unemployment compensation, or a local public assistance benefit.

(B) A veterans' benefit.

(C) A disability, illness, or unemployment benefit.

(D) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(E) A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless all of the following apply:

(i) That plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose.

(ii) The payment is on account of age or length of service.

(iii) That plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 408A of the Internal Revenue Code of 1986.

(11) The debtor's right to receive, or property that is traceable to, any of the following:

(A) An award under a crime victim's reparation law.

(B) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(C) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of that individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(D) A payment, not to exceed fifteen thousand dollars ($15,000), on account of personal bodily injury, not including pain and suffering or

compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

(E) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

SEC. 16. Section 704.115 of the Code of Civil Procedure is amended to read:

704.115. (a) As used in this section, ''private retirement plan'' means:

(1) Private retirement plans, including, but not limited to, union retirement plans.

(2) Profit-sharing plans designed and used for retirement purposes.

(3) Self-employed retirement plans and individual retirement annuities or accounts provided for in the Internal Revenue Code of 1986, as amended, including individual retirement accounts qualified under Section 408 or 408A of that code, to the extent the amounts held in the plans, annuities, or accounts do not exceed the maximum amounts exempt from federal income taxation under that code.

(b) All amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan are exempt.

(c) Notwithstanding subdivision (b), where an amount described in subdivision (b) becomes payable to a person and is sought to be applied to the satisfaction of a judgment for child, family, or spousal support against that person:

(1) Except as provided in paragraph (2), the amount is exempt only to the extent that the court determines under subdivision (c) of Section 703.070.

(2) If the amount sought to be applied to the satisfaction of the judgment is payable periodically, the amount payable is subject to an earnings assignment order for support as defined in Section 706.011 or any other applicable enforcement procedure, but the amount to be withheld pursuant to the assignment order or other procedure shall not exceed the amount permitted to be withheld on an earnings withholding order for support under Section 706.052.

(d) After payment, the amounts described in subdivision (b) and all contributions and interest thereon returned to any member of a private retirement plan are exempt.

(e) Notwithstanding subdivisions (b) and (d), except as provided in subdivision (f), the amounts described in paragraph (3) of subdivision (a) are exempt only to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for the support

of the spouse and dependents of the judgment debtor, taking into account all resources that are likely to be available for the support of the judgment debtor when the judgment debtor retires. In determining the amount to be exempt under this subdivision, the court shall allow the judgment debtor such additional amount as is necessary to pay any federal and state income taxes payable as a result of the applying of an amount described in paragraph (3) of subdivision (a) to the satisfaction of the money judgment.

(f) Where the amounts described in paragraph (3) of subdivision (a) are payable periodically, the amount of the periodic payment that may be applied to the satisfaction of a money judgment is the amount that may be withheld from a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law). To the extent a lump-sum distribution from an individual retirement account is treated differently from a periodic distribution under this subdivision, any lump-sum distribution from an account qualified under Section 408A of the Internal Revenue Code shall be treated the same as a lump-sum distribution from an account qualified under Section 408 of the Internal Revenue Code for purposes of determining whether any of that payment may be applied to the satisfaction of a money judgment.

SEC. 17. Section 1201 of the Commercial Code is amended to read:

1201. The following definitions apply for purposes of this code, subject to additional definitions contained in the subsequent divisions of this code that apply to specific divisions or chapters thereof, and unless the context otherwise requires:

(1) ''Action,'' in the sense of a judicial proceeding, includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) ''Aggrieved party'' means a party entitled to resort to a remedy.

(3) ''Agreement'' means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing, usage of trade, and course of performance as provided in this code (Sections 1205, 2208, and 10207). Whether an agreement has legal consequences is determined by the provisions of this code, if applicable, and otherwise by the law of contracts (Section 1103). (Compare ''contract.'')

(4) ''Bank'' means any person engaged in the business of banking.

(5) ''Bearer'' means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

(6) ''Bill of lading'' means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and that, by its terms, evidences the intention of the issuer that the person entitled under the document, as

defined in Section 7403(4), has the right to receive, hold, and dispose of the document and the goods it covers. Designation of a document by the issuer as a ''bill of lading'' is conclusive evidence of that intention. ''Bill of lading'' includes an airbill. ''Airbill'' means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) ''Branch'' includes a separately incorporated foreign branch of a bank.

(8) ''Burden of establishing a fact'' means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) ''Buyer in ordinary course of business'' means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in the ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Division 2 (commencing with Section 2101) may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

(10) ''Conspicuous.'' A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is ''conspicuous'' if it is in larger or other contrasting type or color, except that in a telegram any stated term is ''conspicuous.'' Whether a term or clause is ''conspicuous'' or not is for decision by the court.

(11) ''Contract'' means the total legal obligation that results from the parties' agreement as affected by this code and any other applicable rules of law. (Compare ''agreement.'')

(12) ''Creditor'' includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) ''Defendant'' includes a person in the position of defendant in a cross-action or counterclaim.

(14) ''Delivery,'' with respect to instruments, documents of title, chattel paper, or certificated securities, means the voluntary transfer of possession.

(15) ''Document of title'' includes a bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, or compress receipt, and any other document that, in the regular course of business or financing, is treated as adequately evidencing that the person entitled under the document, as defined in Section 7403(4), has the right to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document shall purport to be issued by a bailee and purport to cover goods in the bailee's possession that either are identified as or are fungible portions of an identified mass.

(16) ''Fault'' means a wrongful act, omission, or breach.

(17) ''Fungible,'' with respect to goods or securities, means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods that are not fungible shall be deemed fungible for the purposes of this code to the extent that, under a particular agreement or document, unlike units are treated as equivalents.

(18) ''Genuine'' means free of forgery or counterfeiting.

(19) ''Good faith'' means honesty in fact in the conduct or transaction concerned.

(20) ''Holder,'' with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. ''Holder,'' with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To ''honor'' is to pay or to accept and pay or, where a credit so engages, to purchase or discount a draft complying with the terms of the credit.

(22) ''Insolvency proceedings'' includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is ''insolvent'' who either has ceased to pay his or her debts in the ordinary course of business, cannot pay his or her debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.

(24) ''Money'' means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has ''notice'' of a fact when any of the following occurs:

(a) He or she has actual knowledge of it.

(b) He or she has received a notice or notification of it.

(c) From all the facts and circumstances known to him or her at the time in question, he or she has reason to know that it exists. A person ''knows'' or has ''knowledge'' of a fact when he or she has actual knowledge of it. ''Discover'' or ''learn,'' or a word or phrase of similar import, refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.

(26) A person ''notifies'' or ''gives'' a notice or notification to another by taking those steps that may be reasonably required to inform the other in ordinary course whether or not the other actually comes to know of it. A person ''receives'' a notice or notification when any of the following occurs:

(a) It comes to his or her attention.

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of these communications.

(27) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his or her regular duties, or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) ''Organization'' includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) ''Party,'' as distinct from ''third party,'' means a person who has engaged in a transaction or made an agreement within this division.

(30) ''Person'' includes an individual or an organization. (See Section 1102.)

(31) ''Purchase'' includes taking by sale, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(32) ''Purchaser'' means a person who takes by purchase.

(33) ''Remedy'' means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(34) ''Representative'' includes an agent, an officer of a corporation or association, a trustee, executor, or administrator of an estate, or any other person empowered to act for another.

(35) ''Rights'' includes remedies.

(36) (a) ''Security interest'' means an interest in personal property or fixtures that secures payment or performance of an obligation. The term also includes any interest of a cosignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Division 9 (commencing with Section 9101). The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2401 is not a ''security interest,'' but a buyer may also acquire a ''security interest'' by complying with Division 9 (commencing with Section 9101). Except as otherwise provided in Section 2505, the right of a seller or lessor of goods under Division 2 (commencing with Section 2101) or Division 10 (commencing with Section 10101) to retain or acquire possession of the goods is not a ''security interest,'' but a seller or lessor may also acquire a ''security interest'' by complying with Division 9 (commencing with Section 9101). The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2401) is limited in effect to a reservation of a ''security interest.''

(b) Whether a transaction creates a lease or security interest is determined by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and any of the following conditions applies:

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods.

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods.

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(c) A transaction does not create a security interest merely because it provides one or more of the following:

(i) That the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or greater than the fair market value of the goods at the time the lease is entered into.

(ii) That the lessee assumes the risk of loss of the goods, or agrees to pay the taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods.

(iii) That the lessee has an option to renew the lease or to become the owner of the goods.

(iv) That the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed.

(v) That the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(vi) In the case of a motor vehicle, as defined in Section 415 of the Vehicle Code, or a trailer, as defined in Section 630 of that code, that is not to be used primarily for personal, family, or household purposes, that the amount of rental payments may be increased or decreased by reference to the amount realized by the lessor upon sale or disposition of the vehicle or trailer. Nothing in this subparagraph affects the application or administration of the Sales and Use Tax Law (Part 1 (commencing with Section 6001), Division 2, Revenue and Taxation Code).

(d) For purposes of this subdivision (36), all of the following apply:

(i) Additional consideration is not nominal if (A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(ii) ''Reasonably predictable'' and ''remaining economic life of the goods'' are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

(iii) ''Present value'' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(37) ''Send,'' in connection with any writing or notice, means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and

properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or, if there is none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time in which it would have arrived if properly sent has the effect of a proper sending. When a writing or notice is required to be sent by registered or certified mail, proof of mailing is sufficient, and proof of receipt by the addressee is not required unless the words ''with return receipt requested'' are also used.

(38) ''Signed'' includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(39) ''Surety'' includes guarantor.

(40) ''Telegram'' includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(41) ''Term'' means that portion of an agreement that relates to a particular matter.

(42) ''Unauthorized'' signature means one made without actual, implied, or apparent authority, and includes a forgery.

(43) ''Value.'' Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3303, 4210, and 4211), a person gives ''value'' for rights if he or she acquires them in any of the following ways:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection.

(b) As security for, or in total or partial satisfaction of, a preexisting claim.

(c) By accepting delivery pursuant to a preexisting contract for purchase.

(d) Generally, in return for any consideration sufficient to support a simple contract.

(44) ''Warehouse receipt'' means a document evidencing the receipt of goods for storage issued by a warehouseman (Section 7102), and that, by its terms, evidences the intention of the issuer that the person entitled under the document, as defined in Section 7403(4), has the right to receive, hold, and dispose of the document and the goods it covers. Designation of a document by the issuer as a ''warehouse receipt'' is conclusive evidence of that intention.

(45) ''Written'' or ''writing'' includes printing, typewriting, or any other intentional reduction to tangible form.

SEC. 18. Section 2210 of the Commercial Code is amended to read:

2210. (1) A party may perform his or her duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his or her original promisor perform or control the acts

required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Except as otherwise provided in Section 9406, unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him or her by his or her contract, or impair materially his or her chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his or her entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of, or increases materially the burden or risk imposed on, the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subdivision (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (A) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (B) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary, a prohibition of assignment of ''the contract'' is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5) An assignment of ''the contract'' or of ''all my rights under the contract'' or an assignment in similar general terms is an assignment of rights and, unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor, and its acceptance by the assignee constitutes a promise by him or her to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may, without prejudice to his or her rights against the assignor, demand assurances from the assignee (Section 2609).

SEC. 19. Section 2502 of the Commercial Code is amended to read:

2502. (1) Subject to subdivisions (2) and (3), and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he or she has a special property under the provisions of the immediately preceding section may on making and

keeping good a tender of any unpaid portion of their price recover them from the seller if either:

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract.

(b) In all cases, the seller becomes insolvent within 10 days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under paragraph (a) of subdivision (1) vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his or her special property has been made by the buyer, he or she acquires the right to recover the goods only if they conform to the contract for sale.

SEC. 20. Section 9528 of the Commercial Code is amended to read:

9528. Upon the request of any person, the Secretary of State shall issue a combined certificate showing the information as to financing statements as specified in Section 9523, the information as to state tax liens as specified in Section 7226 of the Government Code, the information as to attachment liens as specified in Sections 488.375 and 488.405 of the Code of Civil Procedure, the information as to judgment liens as specified in Section 697.580 of the Code of Civil Procedure, and the information as to federal liens as specified in Section 2103 of the Code of Civil Procedure.

SEC. 21. Section 9706 of the Commercial Code is amended to read:

9706. (a) The filing of an initial financing statement in the office specified in Section 9501 continues the effectiveness of a financing statement filed before July 1, 2001, if all of the following conditions are satisfied:

(1) The filing of an initial financing statement in that office would be effective to perfect a security interest under this division.

(2) The preeffective date financing statement was filed in an office in another state or another office in this state.

(3) The initial financing statement satisfies subdivision (c).

(b) The filing of an initial financing statement under subdivision (a) continues the effectiveness of the preeffective date financing statement for the following periods:

(1) If the initial financing statement is filed before July 1, 2001, for the period provided in former Section 9403 with respect to a financing statement.

(2) If the initial financing statement is filed after July 1, 2001, for the period provided in Section 9515 with respect to an initial financing statement.

(c) To be effective for purposes of subdivision (a), an initial financing statement must do all of the following:

(1) Satisfy the requirements of Chapter 5 (commencing with Section 9501) for an initial financing statement.

(2) Identify the preeffective date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement.

(3) Indicate that the preeffective date financing statement remains effective.

SEC. 22. Section 5222 of the Corporations Code is amended to read:

5222. (a) Subject to subdivisions (b) and (f), any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, the removal is approved by a majority of all members (Section 5033).

(2) In a corporation with 50 or more members, the removal is approved by the members (Section 5034).

(3) In a corporation with no members, the removal is approved by a majority of the directors then in office.

(b) Except for a corporation having no members pursuant to Section 5310:

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 5616, no director may be removed (unless the entire board is removed) if the votes cast against removal, or not consenting in writing to the removal, would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast (or, if the action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(2) If by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(3) If by the provisions of the articles or bylaws the members within a chapter or other organizational unit, or region or other geographic grouping, voting as such, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members within the organizational unit or geographic grouping.

(c) Any reduction of the authorized number of directors or any amendment reducing the number of classes of directors does not remove any director prior to the expiration of the director's term of office.

(d) Except as provided in this section and Sections 5221 and 5223, a director may not be removed prior to the expiration of the director's term of office.

(e) If a director removed under this section or Section 5221 or 5223 was chosen by designation pursuant to subdivision (d) of Section 5220, then:

(1) If a different person may be designated pursuant to a governing article or bylaw provision, the new designation shall be made.

(2) If the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) If by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, then:

(1) Unless otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person or persons.

SEC. 23. Section 7236 of the Corporations Code is amended to read:

7236. (a) Subject to the provisions of Section 7231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation for the benefit of all of the creditors entitled to institute an action under paragraph (1) or (2) of subdivision (c) or to the corporation in an action by the head organization or members under paragraph (1) or (3) of subdivision (c):

(1) The making of any distribution contrary to Chapter 4 (commencing with Section 7410).

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapter 15 (commencing with Section 8510), Chapter 16 (commencing with Section 8610), and Chapter 17 (commencing with Section 8710).

(3) The making of any loan or guaranty contrary to Section 7235.

(b) A director who is present at a meeting of the board, or any committee thereof, at which an action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a), against any or all directors liable by the persons entitled to sue under subdivision (c) of Section 7420.

(2) Under paragraph (2) or (3) of subdivision (a), against any or all directors liable by any one or more creditors of the corporation whose

debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment.

(3) Under paragraph (3) of subdivision (a), against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 7710.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or if the illegal distribution consists of property, the fair market value of that property at the time of the illegal distribution, plus interest thereon from the date of the distribution at the legal rate on judgments until paid, together with all reasonably incurred costs of appraisal or other valuation, if any, of that property, or the loss suffered by the corporation as a result of the illegal loan or guaranty, but not exceeding, in the case of an action for the benefit of creditors, the liabilities of the corporation owed to nonconsenting creditors at the time of the violation.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to the director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

SEC. 24. Section 14000 of the Corporations Code is amended to read:

14000. This chapter shall be known and may be cited as the ''California Small Business Financial Development Corporation Law.''

SEC. 25. Section 14030 of the Corporations Code is amended to read:

14030. There is hereby created in the State Treasury the California Small Business Expansion Fund. All or a portion of the funds in the expansion fund may be paid out, with the approval of the Department of Finance, to lending institutions or financial companies. This fund shall be used to pay for defaulted loan guarantees issued pursuant to Article 9 (commencing with Section 14070), administrative costs of

corporations, and those costs necessary to protect a real property interest in a defaulted loan or guarantee. The amount of guarantee liability outstanding at any one time shall not exceed four times the amount of funds on deposit in the expansion fund, including each of the loan accounts and corporate funds within the expansion fund, unless the office has permitted a higher leverage ratio for an individual corporation pursuant to subdivision (c) of Section 14037.

SEC. 26. Section 14030.1 of the Corporations Code is amended to read:

14030.1. (a) There is hereby created in the State Treasury the Small Business Disaster Recovery Loan Loss Reserve Account, as part of the expansion fund. This account shall be used to pay for unrecovered losses resulting from loan guarantees issued pursuant to subdivision (a) of Section 14075 and subdivision (b) of this section and disaster loan guarantees issued prior to the effective date of this section that are in default. Any lending institution that issues a low-interest loan that is guaranteed by resources in this account shall be fully reimbursed for the guaranteed portion of principal and interest that result from a loan or loans that are in default. In the event that there are insufficient funds in this account to fully satisfy all claimants, then the full faith of the resources in the General Fund are pledged to satisfy the obligations of this account. This account may only guarantee as much loan dollar value as is specifically authorized by the Director of Finance with the concurrence of the Governor. This account shall receive all moneys transferred pursuant to Section 14037.6, and any unencumbered balances transferred to the California Small Business Expansion Fund pursuant to Chapters 11 and 12 of the Statutes of 1989, First Extraordinary Session, and Chapter 1525 of the Statutes of 1990, as of July 1, 1992.

(b) The Governor should utilize this authority to prevent business insolvencies and loss of employment in an area affected by a state of emergency that began in the Los Angeles area on April 29, 1992, and incidents subsequent thereto, and resulting therefrom, throughout the state and declared a disaster by the President of the United States, or by the Administrator of the United States' Small Business Administration, or by the Governor of California.

SEC. 27. Section 14035 of the Corporations Code is amended to read:

14035. There is hereby continued in the State Treasury in the expansion fund, the California Small Business Financial Development Loan Guarantee Account as part of the expansion fund.

SEC. 28. Section 14036 of the Corporations Code is amended to read:

14036. The loan account is created solely for the purpose of receiving state, federal, or local government money, and other public or private money, for subsequent allocation by the office, with the approval of the Department of Finance, to the corporate fund.

SEC. 29. Section 25207 of the Corporations Code is amended to read:

25207. A financial institution that undertakes activities with respect to an investment company pursuant to the provisions of Section 1338, 6524, 14652.5, or 18022.5 of the Financial Code shall not be subject to Section 25210 or 25230 in connection with such activities but shall be subject to Sections 25218, 25234, 25235, and 25237 and to subdivisions (a), (b), and (d) of Section 25216, and such rules thereunder as the commissioner may specify by rule. Nothing in this section shall affect the status of such a financial institution as a broker-dealer or investment adviser, or the employees of such persons, when engaged in the activities authorized by the provisions of the Financial Code specified above.

SEC. 30. Section 1209 of the Education Code is amended to read:

1209. A county superintendent of schools shall not increase his or her salary, financial remuneration, benefits, or pension in any manner or for any reason without bringing the matter to the attention of the county board of education for its discussion at a regularly scheduled public meeting of the board and without the approval of the county board of education.

SEC. 31. Section 17210 of the Education Code is amended to read:

17210. As used in this article, the following terms have the following meanings:

(a) ''Administering agency'' means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(b) ''Environmental assessor'' means a class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code or a licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or from a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science; engineering; geology; environmental or public health; or a directly related science field. In addition, a contractor who conducts Phase I environmental assessments shall have a least two years' experience in the preparation of those assessments and a contractor who conducts a

preliminary endangerment assessment shall have at least three years' experience in conducting those assessments.

(c) ''Handle'' has the meaning the term is given in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(d) ''Hazardous air emissions'' means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(e) ''Hazardous material'' has the meaning the term is given in subdivision (d) of Section 25260 of the Health and Safety Code.

(f) ''Operation and maintenance,'' ''removal action work plan,'' ''respond,'' ''response,'' ''response action'' and ''site'' have the meanings those terms are given in Article 2 (commencing with Section 25310) of the state act.

(g) ''Phase I environmental assessment'' means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A Phase I environmental assessment may include, but is not limited to, a review of public and private records of current and historical land uses, prior releases of a hazardous material, data base searches, review of relevant files of federal, state, and local agencies, visual and other surveys of the property, review of historical aerial photographs of the property and the area in its vicinity, interviews with current and previous owners and operators, and review of regulatory correspondence and environmental reports. Sampling or testing is not required as part of the Phase I environmental assessment.

(h) ''Preliminary endangerment assessment'' means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials, or whether naturally occurring hazardous materials are present, which pose a threat to children's health, children's learning abilities, public health or the environment. A preliminary endangerment assessment requires sampling and analysis of a site, a preliminary determination of the type and extent of hazardous material contamination of the site, and a preliminary evaluation of the risks that the hazardous material contamination of a site may pose to children's health, public health, or

the environment, and shall be conducted in a manner that complies with the guidelines published by the Department of Toxic Substances Control entitled ''Preliminary Endangerment Assessment: Guidance Manual,'' including any amendments that are determined by the Department of Toxic Substances Control to be appropriate to address issues that are unique to schoolsites.

(i) ''Proposed schoolsite'' means real property acquired or to be acquired or proposed for use as a schoolsite, prior to its occupancy as a school.

(j) ''Regulated substance'' means any material defined in subdivision (g) of Section 25532 of the Health and Safety Code.

(k) ''Release'' has the same meaning the term is given in Article 2 (commencing with Section 25310) of Chapter 6.8 of Division 20 of the Health and Safety Code, and includes a release described in subdivision (d) of Section 25321 of the Health and Safety Code.

(*l*) ''Remedial action plan'' means a plan approved by the Department of Toxic Substances Control pursuant to Section 25356.1 of the Health and Safety Code.

(m) ''State act'' means the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code).

SEC. 32. Section 17284.5 of the Education Code is amended to read:

17284.5. Notwithstanding any provision of law to the contrary, any waiver granted by the State Allocation Board to a school district for use of a nonconforming existing private building acquired for conversion for use as a school building, that had not expired prior to January 1, 2000, is hereby extended until January 1, 2001, if the work to make the building a conforming structure commenced prior to January 1, 2000, but had not been completed by that date.

SEC. 33. Section 17620 of the Education Code is amended to read:

17620. (a) (1) The governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code. This fee, charge, dedication, or other requirement may be applied to construction only as follows:

(A) To new commercial and industrial construction. The chargeable covered and enclosed space of commercial or industrial construction shall not be deemed to include the square footage of any structure existing on the site of that construction as of the date the first building permit is issued for any portion of that construction.

(B) To new residential construction.

(C) (i) Except as otherwise provided in clause (ii), to other residential construction, only if the resulting increase in assessable space exceeds 500 square feet. The calculation of the ''resulting increase in assessable space'' for this purpose shall reflect any decrease in assessable space in the same residential structure that also results from that construction. Where authorized under this paragraph, the fee, charge, dedication, or other requirement is applicable to the total resulting increase in assessable space.

(ii) This subparagraph does not authorize the imposition of a levy, charge, dedication, or other requirement against residential construction, regardless of the resulting increase in assessable space, if that construction qualifies for the exclusion set forth in subdivision (a) of Section 74.3 of the Revenue and Taxation Code.

(D) To location, installation, or occupancy of manufactured homes and mobilehomes, as defined in Section 17625.

(2) For purposes of this section, ''construction'' and ''assessable space'' have the same meaning as defined in Section 65995 of the Government Code.

(3) For purposes of this section and Section 65995, ''construction or reconstruction of school facilities'' does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

(C) The purposes of deferred maintenance described in Section 17582.

(4) The appropriate city or county may be authorized, pursuant to contractual agreement with the governing board, to collect and otherwise administer, on behalf of the school district, any fee, charge, dedication, or other requirement levied under this subdivision. In the event of any agreement authorizing a city or county to collect that fee, charge, dedication, or other requirement in any area within the school district, the certification requirement set forth in subdivision (b) or (c), as appropriate, is deemed to be complied with as to any residential construction within that area upon receipt by that city or county of payment of the fee, charge, dedication, or other requirement imposed on that residential construction.

(5) Fees or other consideration collected pursuant to this section may be expended by a school district for the costs of performing any study or otherwise making the findings and determinations required under

subdivisions (a), (b), and (d) of Section 66001 of the Government Code, or in preparing the school facilities needs analysis described in Section 65995.6 of the Government Code. In addition, an amount not to exceed, in any fiscal year, 3 percent of the fees collected in that fiscal year pursuant to this section may be retained by the school district, city, or county, as appropriate, for reimbursement of the administrative costs incurred by that entity in collecting the fees. When any city or county is entitled, under an agreement as described in paragraph (4), to compensation in excess of that amount, the payment of that excess compensation shall be made from other revenue sources available to the school district. For purposes of this paragraph, ''fees collected in that fiscal year pursuant to this section'' does not include any amount in addition to the amounts specified in paragraphs (1) and (2) of subdivision (b) of Section 65995 of the Government Code.

(b) A city or county, whether general law or chartered, may not issue a building permit for any construction absent certification by the appropriate school district that any fee, charge, dedication, or other requirement levied by the governing board of that school district has been complied with, or of the district's determination that the fee, charge, dedication, or other requirement does not apply to the construction. The school district shall issue the certification immediately upon compliance with the fee, charge, dedication, or other requirement.

(c) If, pursuant to subdivision (c) of Section 17621, the governing board specifies that the fee, charge, dedication, or other requirement levied under subdivision (a) is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code, the restriction set forth in subdivision (b) of this section does not apply. In that event, however, a city or county, whether general law or chartered, may not conduct a final inspection or issue a certificate of occupancy, whichever is later, for any residential construction absent certification by the appropriate school district of compliance by that residential construction with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a).

(d) Neither subdivision (b) nor (c) shall apply to a city or county as to any fee, charge, dedication, or other requirement as described in subdivision (a), or as to any increase in that fee, charge, dedication, or other requirement, except upon the receipt by that city or county of notification of the adoption of, or increase in, the fee or other requirement in accordance with subdivision (c) of Section 17621.

SEC. 34. Section 23812 of the Education Code is amended to read:

23812. (a) The surviving spouse of a deceased member who previously lost entitlement to benefits prescribed by this part due to remarriage shall be entitled to resume payment of the benefits effective

either on January 1, 2000, or the first day of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the benefits payable shall be calculated as though the benefits had been paid without interruption from the date of remarriage through the benefits resumption effective date.

(b) The board shall be under no requirement to identify, locate, or notify a remarried spouse of a deceased member who previously lost entitlement as a result of remarriage about the resumption of benefits provided in this section. The board shall be under no requirement to provide the name or address or any other information concerning any remarried spouse of a deceased member to any person, agency, or entity for the purpose of notifying those who may be eligible for the resumption of benefits under this section.

(c) Nothing in this section shall be construed to imply or interpreted to mean that the benefits addressed shall be required to be paid retroactively.

SEC. 35. Section 24255 of the Education Code is amended to read:

24255. (a) There is in the State Treasury a trust fund to be known as the Teachers' Replacement Benefits Program Fund. There shall be deposited directly in that fund, and not transferred from the Teachers' Retirement Fund, that portion of employer contributions determined by the board as necessary to fund the replacement benefits program.

(b) Notwithstanding Section 13340 of the Government Code, moneys in the Teachers' Replacement Benefits Program Fund are continuously appropriated without regard to fiscal years to pay benefits to members and beneficiaries of the defined benefit program, and to pay related administrative expenses.

(c) The board may authorize the transfer and disbursement of funds from the Teachers' Replacement Benefits Program Fund for the purpose of carrying into effect this chapter upon the signature of either or both of its chairperson and vice chairperson or the chief executive officer or any employee of the system designated by the chief executive officer.

(d) Disbursements of money from the Teachers' Replacement Benefits Program Fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds except that, notwithstanding the foregoing, disbursements may be made to return funds deposited in the fund in error.

SEC. 36. Section 35012 of the Education Code is amended to read:

35012. (a) Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly

as practicable one-half of the members shall be elected in each odd-numbered year.

(b) A unified school district may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of the board shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

(d) There may be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to appoint one or more nonvoting pupil members to the board pursuant to this section.

There may also be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to allow preferential voting for the pupil member or members of the board. This request may be made in the original petition for pupil representation on the board or in a separate petition after a pupil member or members have been appointed to the board.

Whether for pupil representation or for preferential voting for the pupil member or members, the petition shall contain the signatures of either (a) not less than 500 pupils regularly enrolled in high schools of the district, or (b) not less than 10 percent of the number of pupils regularly enrolled in high schools of the district, whichever is less.

Upon receipt of a petition for pupil representation, the governing board shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting pupil member. The board may order the inclusion of more than one nonvoting pupil member.

Upon receipt of a petition for preferential voting for the pupil member or members, the governing board shall allow preferential voting for the pupil member or members of the governing board.

Preferential voting, as used in the section, means a formal expression of opinion that is recorded in the minutes and cast prior to the official vote of the governing board. A preferential vote will not serve in determining the final numerical outcome of a vote. No preferential vote will be solicited on matters subject to closed session discussion.

The governing board may adopt a resolution authorizing the nonvoting or preferential voting pupil member or members to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

Each pupil member shall have the right to attend each and all meetings of the governing board, except executive sessions.

Any pupil selected to serve as a nonvoting or preferential voting member of the governing board shall be enrolled in a high school of the district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a pupil member shall be one year commencing on July 1 of each year.

A nonvoting or preferential voting pupil member shall be entitled to the mileage allowance to the same extent as regular members, but is not entitled to the compensation prescribed by Section 35120.

A nonvoting or preferential voting pupil member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting or preferential voting pupil member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting or preferential voting pupil member shall not be liable for any acts of the governing board.

SEC. 37. Section 35160.5 of the Education Code is amended to read:

35160.5. (a) The governing board of each school district that maintains one or more schools containing any of grades 7 to 12, inclusive, shall, as a condition for the receipt of an inflation adjustment pursuant to Section 42238.1, establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. The criteria, which shall be applied to extracurricular and cocurricular activities, shall ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period. Pupils who are eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 are covered by this section consistent with that subdivision. No person shall classify a pupil as eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 for the purpose of circumventing the intent of this subdivision.

(1) For purposes of this subdivision, ''extracurricular activity'' means a program that has all of the following characteristics:

(A) The program is supervised or financed by the school district.

(B) Pupils participating in the program represent the school district.

(C) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.

(D) The program includes both preparation for performance and performance before an audience or spectators.

(2) For purposes of this subdivision, an ''extracurricular activity'' is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a ''cocurricular activity'' is defined as a program that may be associated with the curriculum in a regular classroom.

(4) Any teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, ''satisfactory educational progress'' shall include, but not be limited to, the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, ''previous grading period'' does not include any grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work. In that event, ''previous grading period'' is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period shall not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), during the probationary period shall not be allowed to

participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) Nothing in this subdivision shall preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

The governing board of each school district shall annually review the school district policies adopted pursuant to the requirements of this section.

(b) (1) On or before July 1, 1994, the governing board of each school district shall, as a condition for the receipt of school apportionments from the state school fund, adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to any school district that has only one school or any school district with schools that do not serve any of the same grade levels.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parents or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether any pupil should be enrolled based upon his or her academic or athletic performance. For purposes of this subdivision, the governing board of the school district shall determine the capacity of the schools in its district. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that the selection is made through a random, unbiased process, the policy may include any of the following elements:

(A) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:

(i) A written statement from a representative of the appropriate state or local agency, including, but not limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not limited to, psychiatrists, psychologists, or marriage, family and child counselors.

(ii) A court order, including a temporary restraining order and injunction, issued by a judge.

A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.

(B) It may provide that any pupil attending a school prior to July 1, 1994, may be considered a current resident of that school for purposes of this section until the pupil is promoted or graduates from that school.

(C) It may provide that no pupil who was on a waiting list for a school or specialized program, on or before July 1, 1994, pursuant to a then-existing district policy on transfers within the district, shall be displaced by pupils transferring after July 1, 1994, from outside the attendance area, as long as the continued maintenance on a waiting list remains consistent with the former policy.

(D) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of pupils already in attendance in that school and to pupils whose parent or legal guardian is assigned to that school as his or her primary place of employment.

(E) It may include a process by which the school district informs parents or guardians that certain schools or grade levels within a school are currently, or are likely to be, at capacity and, therefore, those schools or grade levels are unable to accommodate any new pupils under the open enrollment policy.

(4) It is the intent of the Legislature that, upon the request of the pupil's parent or guardian and demonstration of financial need, each

school district provide transportation assistance to the pupil to the extent that the district otherwise provides transportation assistance to pupils.

SEC. 38. Section 37252 of the Education Code is amended to read:

37252. (a) The governing board of each district maintaining any or all of grades 7 to 12, inclusive, shall offer and a charter school that maintains any or all of grades 7 to 12, inclusive, may offer summer school instructional programs, using the amount computed pursuant to Section 42239, for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the exit examination required for high school graduation pursuant to Chapter 8 (commencing with Section 60850) of Part 33. Sufficient progress shall be determined on the basis of either of the following:

(1) The results of the assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and the minimum levels of proficiency recommended by the State Board of Education pursuant to Section 60648.

(2) The pupils' grades and other indicators of academic achievement designated by the district.

(b) The summer school programs shall also be offered to pupils who were enrolled in grade 12 during the prior school year after the completion of grade 12.

(c) (1) For purposes of this section a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade.

(2) For the purposes of this section, pupils who do not possess sufficient English language skills to be assessed as set forth in Sections 60850 and 60853, shall be considered pupils who do not demonstrate sufficient progress towards passing the exit examination required for high school graduation and shall receive supplemental instruction designed to assist pupils to succeed on the high school exit examination.

(d) Instructional programs may be offered pursuant to this section during the summer, after school, Saturday, or during intersession, or in any combination of summer, after school, Saturday, or intersession instruction, but shall be in addition to the regular schoolday.

(e) This section shall become operative January 1, 2000.

SEC. 39. Section 39006 of the Education Code is amended and renumbered to read:

17215.5. (a) Prior to commencing the acquisition of real property for a new schoolsite in an area designated in a city, county, or city and county general plan for agricultural use and zoned for agricultural production, the governing board of a school district shall make all of the following findings:

(1) The school district has notified and consulted with the city, county, or city and county within which the prospective schoolsite is to be located.

(2) The final site selection has been evaluated by the governing board of the school district based on all factors affecting the public interest and not limited to selection on the basis of the cost of the land.

(3) The school district will attempt to minimize any public health and safety issues resulting from the neighboring agricultural uses that may affect the pupils and employees at the schoolsite.

(b) Subdivision (a) shall not apply to any schoolsite approved by the State Department of Education prior to January 1, 1997.

SEC. 40. Section 44225.6 of the Education Code is amended to read:

44225.6. (a) By January 10 of each year, the commission shall report to the Legislature and the Governor on the number of classroom teachers who received credentials, internships, and emergency permits in the previous fiscal year. This report shall include the following information:

(1) The number of individuals recommended for credentials by institutions of higher education.

(2) The number of individuals recommended by school districts operating district internship programs.

(3) The number of individuals receiving an initial credential based on a program completed outside of California.

(4) The number of individuals serving in the following capacities by subject matter, county, and school district:

(A) University internship.

(B) District internship.

(C) Pre-Internship.

(D) Emergency permit.

(E) Credential waiver.

(5) The specific subjects and teaching areas in which there are a sufficient number of new holders of credentials to fill the positions currently held by individuals with emergency permits.

(b) The commission shall make this report available to school districts and county offices of education to assist them in the recruitment of credentialed teachers.

(c) A common measure of whether teacher preparation programs are meeting the challenge of preparing increasing numbers of new teachers is the number of teaching credentials awarded. The number of teaching credentials recommended by these programs and awarded by the commission are indicators of the productivity of teacher preparation programs. The commission shall include in the report prepared for the Legislature and Governor pursuant to subdivision (a) the total number of teaching credentials recommended by all accredited teacher preparation programs authorized by the commission and the number recommended by each of the following:

(1) The University of California system.

(2) The California State University system.

(3) Independent colleges and universities that offer teacher preparation programs approved by the commission.

(4) Other institutions that offer teacher preparation programs approved by the commission.

SEC. 41. 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. 42. 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 pupils 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 for pupils adopted 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 pupil 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 pupils 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. 43. 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. 44. 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, inclusive, 192 insofar as this section relates to voluntary manslaughter, 193, 194 to 217.1, inclusive, 220, 222, 244, 245, 261 to 267, inclusive, 273a, 273ab, 273d, 273f, 273g,

278, 285 to 288a, inclusive, 424, 425, 484 to 488, inclusive, insofar as these 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 contendere 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.

SEC. 45. Section 47611.5 of the Education Code is amended to read:

47611.5. (a) Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code shall apply to charter schools.

(b) A charter school charter shall contain a declaration regarding whether or not the charter school shall be deemed the exclusive public school employer of the employees at the charter school for the purposes of Section 3540.1 of the Government Code. If the charter school is not so deemed a public school employer, the school district where the charter is located shall be deemed the public school employer for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of the Government Code.

(c) If the charter of a charter school does not specify that it shall comply with those statutes and regulations governing public school employers that establish and regulate tenure or a merit or civil service

system, the scope of representation for that charter school shall also include discipline and dismissal of charter school employees.

(d) The Public Employment Relations Board shall take into account the Charter Schools Act of 1992 (Part 26.8 (commencing with Section 47600)) when deciding cases brought before it related to charter schools.

(e) The approval or a denial of a charter petition by a granting agency pursuant to subdivision (b) of Section 47605 shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board.

(f) By March 31, 2000, all existing charter schools must declare whether or not they shall be deemed a public school employer in accordance with subdivision (b), and such declaration shall not be materially inconsistent with the charter.

SEC. 46. Section 47612.5 of the Education Code is amended to read:

47612.5. (a) Notwithstanding any other provision of law, a charter school shall do all of the following:

(1) Offer, at a minimum, the same number of minutes of instruction set forth in paragraph (3) of subdivision (a) of Section 46201 for the appropriate grade levels.

(2) Maintain written contemporaneous records that document all pupil attendance and make these records available for audit and inspection.

(3) Certify that its pupils have participated in the state testing programs specified in Chapter 5 (commencing with Section 60600) of Part 33 in the same manner as other pupils attending public schools as a condition of apportionment of state funding.

(b) Notwithstanding any other provision of law, a charter school that provides independent study shall comply with Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 and implementing regulations adopted thereunder. The State Board of Education shall adopt regulations that apply this article to charter schools. To the extent that these regulations concern the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (*l*) of Section 47605.

SEC. 47. Section 51871.5 of the Education Code is amended to read:

51871.5. (a) It is the intent of the Legislature that education technology planning be accomplished in the most comprehensive manner possible. To that end, the current practice of developing education technology plans for each funding program should be replaced with a comprehensive local planning process that will enable school districts to apply for grants on an ongoing basis and assist in utilizing available education technology programs.

(b) By October 1, 2000, the commission, in conjunction with the Curriculum Development and Supplemental Materials Commission, shall recommend guidelines and criteria to the State Board of Education for assisting school districts in the preparation of three- to five-year technology plans for the integration of technology into the school curriculum. At a minimum, the technology plans shall be integrated, where allowed by law, with School Improvement Plans and Title I Plans and include a staff development and technical support component.

(c) On or after January 1, 2002, a school district shall have a technology plan as a precondition of receiving any technology grant administered by the State Department of Education. This requirement may be waived by the State Board of Education if it is determined that the applicant school district made a good faith effort to develop a local technology plan, but for reasons beyond its control, the district cannot develop the plan before receipt of the technology grant.

(d) The State Department of Education shall maintain a record of school districts that have three- to five-year education technology plans and shall make that information available to any interested public agencies.

SEC. 48. Section 54685.2 of the Education Code is amended to read:

54685.2. The Orange County Superintendent of Schools, having been selected by the Superintendent of Public Instruction, shall continue to manage the implementation of the Early Intervention for School Success Program pursuant to the management plan described in Section 54685.3.

SEC. 49. Section 54685.3 of the Education Code is amended to read:

54685.3. The management plan required by this section shall include the following activities:

(a) Implementation of the program at 300 public schoolsites within the state between July 1, 1999, and June 30, 2004.

(b) The dissemination of program information.

(c) The awarding of competitive grants to schools representative of the ethnic, socioeconomic, and geographic diversity of the public school system.

(d) Provisions for training, materials, parent education, and technical assistance.

(e) Adaptation of the Early Intervention for School Success Program to meet state and local standards, the goals of the California Reading Initiative, and the expectations of class size reduction legislation, including identification of existing materials and development of new materials, if needed.

(f) Development of a statewide support network.

(g) Selection of successful sites as demonstration models for inclusion in a statewide network.

(h) Certification of one teacher for each funded schoolsite to serve as a local trainer.

(i) The provision of continued professional development instruction in prevention and early intervention methods based on research and exemplary practice.

(j) The training of school personnel in the skills necessary to determine instructional levels of pupils based on a continuous assessment of pupil performance that is validated and supported by the use of multiple assessment techniques. For purposes of this section, ''multiple assessment techniques'' includes, but is not limited to, teacher observation, anecdotal records, norm referenced tests, and criterion referenced tests.

(k) Provision for an annual program progress report and program evaluation by the Orange County Superintendent of Schools to be submitted to the State Department of Education.

SEC. 50. Section 60200.2 of the Education Code is amended to read:

60200.2. (a) In addition to the findings authorized under subparagraphs (A) and (B) of paragraph (5) of subdivision (c) of Section 60200, if the state board finds that the use of a commercial brand name, product, or corporate or company logo in an instructional material is authorized under a contract entered into under paragraph (3) of subdivision (a) of Section 35182.5 as added by Assembly Bill 117 of the 1999–2000 Regular Session, the state board may allow the use of that instructional material.

(b) This section shall become operative only if Section 35182.5 as proposed by Assembly Bill 117 of the 1999–2000 Regular Session is enacted and takes effect.

SEC. 51. The heading of Chapter 8 (commencing with Section 60850) of Part 33 of Division 4 of Title 2 of the Education Code is amended and renumbered to read:

CHAPTER 9. HIGH SCHOOL EXIT EXAMINATION

SEC. 52. Section 60855 of the Education Code is amended to read:

60855. (a) By January 15, 2000, the Superintendent of Public Instruction shall contract for a multiyear independent evaluation of the high school exit examination that is established pursuant to this chapter. The evaluation shall be based upon information gathered in field testing and annual administrations of the examination and shall include all of the following:

(1) Analysis of pupil performance, broken down by grade level, gender, race or ethnicity, and subject matter of the examination, including any trends that become apparent over time.

(2) Analysis of the exit examination's effects, if any, on college attendance, pupil retention, graduation, and dropout rates, including analysis of these effects on the population subgroups described in subdivision (b).

(3) Analysis of whether the exit examination is likely to have, or has, differential effects, whether beneficial or detrimental, on population subgroups described in subdivision (b).

(b) Evaluations conducted pursuant to this section shall separately consider test results for each of the following population subgroups, provided that information concerning individuals shall not be gathered or disclosed in the process of preparing this evaluation.

(1) English language learners and non-English language learners.

(2) Individuals with exceptional needs and individuals without exceptional needs.

(3) Pupils that qualify for free or reduced price meals and are enrolled in schools that qualify for assistance under Title 1 of the Improving America's Schools Act of 1994 (P.L. 103-382) and pupils that do not qualify for free or reduced price meals and are not enrolled in schools that qualify for assistance under Title 1 of the Improving America's Schools Act of 1994 (P.L. 103-382).

(4) Any group of pupils that has been determined by the independent evaluator to be differentially affected by the exit examination established pursuant to this chapter.

(c) Evaluation reports shall include recommendations to improve the quality, fairness, validity, and reliability of the examination. The independent evaluator may also make recommendations for revisions in design, administration, scoring, processing, or use of the examination.

(d) The independent evaluator shall report to the Governor, the Office of the Legislative Analyst, the Superintendent of Public Instruction, the State Board of Education, the Secretary for Education, and the chairs of the education policy committees in both houses of the Legislature, in accordance with the following schedule:

(1) Preliminary report on field testing by July 1, 2000.

(2) First annual report by February 1, 2002.

(3) Regular biennial reports by February 1 of even-numbered years following 2002.

SEC. 53. Section 66293 of the Education Code is amended to read:

66293. The California Postsecondary Education Commission shall report to the Legislature and Governor on the representation and utilization of ethnic minorities and women among academic, administrative, and other employees at the community colleges, the

California State University, and the University of California, pursuant to Section 66903.3.

SEC. 54. Section 81149 of the Education Code is amended to read:

81149. (a) Notwithstanding any provision of law, a community college district may acquire for use any facility previously used by the United States military and closed as a result of action by the federal Defense Base Closure and Realignment Commission, or purchase any offsite building constructed prior to January 1, 1998 that meets the structural requirements of the 1976 Uniform Building Code, or subsequent additions to that code, but that does not meet the requirements of Section 81130, for use as a school building, as defined in Section 81130.5, if the governing board of the district finds that all of the following conditions have been met:

(1) A structural engineer has inspected the building or facility and submitted a report to the governing board of the community college district that certifies that the building or facility is in substantial compliance with the requirements of this article, or describes in detail any structural modifications necessary to render the building or facility in substantial compliance with this article. For purposes of this section, substantial compliance with this article means that the building or facility is likely to resist, without catastrophic collapse, earthquake forces generated by major earthquakes of the intensity and severity of the strongest experienced in California, but may experience some reparable architectural or structural damage. This requirement is satisfied if the structural engineer affixes his or her seal of approval to the report and he or she attests in that report that to the best of his or her knowledge:

(A) He or she has reviewed the design calculations, construction documents, and the local government construction inspection records of the building or facility, to the extent those items are available.

(B) He or she has authorized testing and has observed or reviewed the test results and the inspections of an adequate sample of the structure's welds, anchor bolts, and other structural elements.

(C) He or she has observed that the nonstructural elements, including, but not limited to, light fixtures, heating, and air-conditioning diffusers are adequately braced or anchored.

(2) The governing board of the community college district shall forward the report submitted pursuant to paragraph (1) to the Department of General Services for its review. Within 45 working days, the Department of General Services shall review the report for compliance with the above requirements, to provide feedback to the structural engineer regarding any insufficiencies with the report, and to determine whether or not the building or facility is in substantial compliance with the requirements of this article, or whether any proposed structural modifications will render the structure in substantial

compliance with this article. If the Department of General Services does not respond within 45 working days of the submission of the final and complete report, the department will be deemed to have concurred with the structural engineer's report. If structural modifications are necessary to achieve substantial compliance with this article, plans shall be submitted to the department for review and approval. Construction shall be completed in compliance with the continuous inspection requirements of this article.

(b) (1) No member of the governing board of a community college district, and no employee of a community college district, shall be held personally liable for injury to persons or damage to property resulting from the fact that the governing board of the community college district purchased a building or facility pursuant to this subdivision for a school and the building or facility was not constructed pursuant to the requirements of Section 81130.

(2) The exemption from personal liability for members of the governing board and employees of a community college district described in paragraph (1) does not limit the liability of the community college district for injury to persons or damage to property resulting from the fact that the governing board or any employee of the community college district used a building or facility pursuant to this subdivision for a school if the building or facility was not constructed pursuant to the requirements of Section 81130. The exemption from personal liability for members of the governing board and employees of a community college district described in paragraph (1) does not limit the liability of the community college district, the governing board, or the district's employees pursuant to Section 835 of the Government Code.

(3) Section 81144 is not applicable to a person who, pursuant to this section, purchases a building or facility that meets the requirements of this section but does not meet the requirements of Section 81130. Approval and use of a building or facility pursuant to this section does not violate this article.

SEC. 55. Section 8040 of the Elections Code is amended to read:

8040. (a) The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a ____ Party candidate for nomination to the office of ____ District Number ____ to be voted for at the primary election to be held ____, 19__, and declare the following to be true:

My name is _____.

I want my name and occupational designation to appear on the ballot as follows: _____.

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

I meet the statutory and constitutional qualifications for this office (including, but not limited to, citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) ____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

State of California)
County of _____) ss.
)

Subscribed and sworn to before me this ___ day of ____, 19__.

_____

Notary Public (or other official)

Examined and certified by me this ____ day of ____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his or her possession which is entitled to be filed under the provisions of the Elections Code Section 18202.

(b) No candidate for a judicial office shall be required to state his or her residential address on the declaration of candidacy. However, in cases where the candidate does not state his or her residential address on the declaration of candidacy, the elections official shall verify whether his or her address is within the appropriate political subdivision and add the notation ''verified'' where appropriate.

SEC. 56. Section 243 of the Family Code is amended to read:

243. (a) When the matter first comes up for hearing, the applicant must be ready to proceed.

(b) If an order described in Section 240 has been issued without notice pending the hearing, the applicant must have served on the respondent, at least five days before the hearing, a copy of each of the following:

(1) The order to show cause.

(2) The application and the affidavits and points and authorities in support of the application.

(3) Any other supporting papers filed with the court.

(c) If the applicant fails to comply with subdivisions (a) and (b), the court shall dissolve the order.

(d) If service is made under subdivision (b), the respondent is entitled, as a matter of course, to one continuance for a reasonable period to respond to the application for the order.

(e) On motion of the applicant or on its own motion, the court may shorten the time provided in this section for service on the respondent.

(f) The respondent may, in response to the order to show cause, present affidavits relating to the granting of the order, and if the affidavits are served on the applicant at least two days before the hearing, the applicant is not entitled to a continuance on account of the affidavits.

SEC. 57. Section 2040 of the Family Code is amended to read:

2040. (a) In addition to the contents required by Section 412.20 of the Code of Civil Procedure, the summons shall contain a temporary restraining order:

(1) Restraining both parties from removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court.

(2) Restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life, and requiring each party to notify the other party of any proposed extraordinary expenditures at least five business days before incurring those expenditures and to account to the court for all extraordinary expenditures made after service of the summons on that party.

Notwithstanding the foregoing, nothing in the restraining order shall preclude a party from using community property, quasi-community property, or the party's own separate property to pay reasonable attorney's fees and costs in order to retain legal counsel in the proceeding. A party who uses community property or quasi-community property to pay his or her attorney's retainer for fees and costs under this provision shall account to the community for the use of the property. A party who uses other property that is subsequently determined to be the separate property of the other party to pay his or her attorney's retainer for fees and costs under this provision shall account to the other party for the use of the property.

(3) Restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of

any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their child or children for whom support may be ordered.

(b) In all actions filed on and after January 1, 1995, the summons shall contain the following notice:

''WARNING: California law provides that, for purposes of division of property upon dissolution of marriage or legal separation, property acquired by the parties during marriage in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language of how title is held in the deed (i.e., joint tenancy, tenants in common, or community property) will be controlling and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.''

SEC. 58. Section 3021 of the Family Code is amended to read:

3021. This part applies in any of the following:

(a) A proceeding for dissolution of marriage.

(b) A proceeding for nullity of marriage.

(c) A proceeding for legal separation of the parties.

(d) An action for exclusive custody pursuant to Section 3120.

(e) A proceeding to determine physical or legal custody or for visitation in a proceeding pursuant to the Domestic Violence Prevention Act (Division 10 (commencing with Section 6200)).

In an action under Section 6323, nothing in this subdivision shall be construed to authorize physical or legal custody, or visitation rights, to be granted to any party to a Domestic Violence Prevention Act proceeding who has not established a parent and child relationship pursuant to paragraph (2) of subdivision (a) of Section 6323.

(f) A proceeding to determine physical or legal custody or visitation in an action pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

(g) A proceeding to determine physical or legal custody or visitation in an action brought by the district attorney pursuant to Section 17404.

SEC. 59. Section 4065 of the Family Code is amended to read:

4065. (a) Unless prohibited by applicable federal law, the parties may stipulate to a child support amount subject to approval of the court. However, the court shall not approve a stipulated agreement for child support below the guideline formula amount unless the parties declare all of the following:

(1) They are fully informed of their rights concerning child support.

(2) The order is being agreed to without coercion or duress.

(3) The agreement is in the best interests of the children involved.

(4) The needs of the children will be adequately met by the stipulated amount.

(5) The right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending.

(b) The parties may, by stipulation, require the child support obligor to designate an account for the purpose of paying the child support obligation by electronic funds transfer pursuant to Section 4508.

(c) A stipulated agreement of child support is not valid unless the district attorney has joined in the stipulation by signing it in any case in which the district attorney is providing services pursuant to Section 17400. The district attorney shall not stipulate to a child support order below the guideline amount if the children are receiving assistance under the CalWORKs program, if an application for public assistance is pending, or if the parent receiving support has not consented to the order.

(d) If the parties to a stipulated agreement stipulate to a child support order below the amount established by the statewide uniform guideline, no change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above.

SEC. 60. Section 5002 of the Family Code is amended to read:

5002. (a) In an action pursuant to this chapter prosecuted by the district attorney or the Attorney General that is initiated by service of summons and petition or other comparable pleading, the respondent may also be served with a proposed judgment consistent with the relief sought in the petition or other comparable pleading. If the respondent's income or income history is unknown to the district attorney, the district attorney may serve a form of proposed judgment with the petition and other documents on the respondent that shall inform the respondent that income shall be presumed in an amount that results in a court order equal to the minimum basic standard of adequate care provided in Section 11452 of the Welfare and Institutions Code unless information concerning the respondent's income is provided to the court. The respondent shall also receive notice that the proposed judgment will become effective if he or she fails to file a response with the court within 30 days after service.

(b) In any action pursuant to this chapter in which the judgment was obtained pursuant to presumed income, as set forth in this section, the court may relieve the respondent from that part of the judgment or order concerning the amount of child support to be paid in the manner set forth in Section 17432.

SEC. 61. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivisions (b) and (c), an industrial loan company shall not

make any loan or purchase or discount any note secured primarily by real property unless the loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term, which shall not exceed 30 years and 30 days from the date the loan or other obligation is made or acquired by the company. Equal installment requirements shall not apply to adjustable or variable rate loans or obligations made or purchased by the industrial loan company in accordance with Title VIII of the Garn-St. Germaine Depository Institutions Act of 1982 and any applicable regulations, guidelines, and policies adopted thereunder. However, an industrial loan company may make loans secured by first trust deeds on real property containing single family, or one to four residential, units provided that the repayment period for each loan does not exceed 40 years and 30 days from the date the loan is made by the company. All loans with repayment periods in excess of 30 years and 30 days shall not exceed in the aggregate 5 percent of all outstanding loans and obligations of the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property. However, if the original principal amount of the consumer loan or obligation is twenty thousand dollars ($20,000) or more, then the loan or obligation shall be secured solely by real property or solely by personal property, or by both real property and personal property. All loans and obligations made and purchased pursuant to this subdivision shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except that consumer loans or obligations secured solely by personal property shall have a term not to exceed the term provided for in Section 18205 and except as otherwise may be provided for in Sections 18207, 18208, and 18209. The equal installment requirements set forth in subdivision (a) shall not apply to loans or obligations made or purchased by the industrial loan company in accordance with Title VIII of the Garn-St. Germaine Depository Institutions Act of 1982 and any applicable regulations, guidelines, and policies adopted thereunder.

(c) In order to ensure the safety and soundness of industrial loan companies and to avoid an unreasonable concentration of loans and obligations that could result in balloon payments, all loans and obligations with a term in excess of 15 years and 30 days shall be repaid in substantially equal weekly, semimonthly, monthly, or quarterly installments during their term.

SEC. 62. Section 55702 of the Food and Agricultural Code is amended to read:

55702. (a) Except as otherwise provided in this section, any person who sells or furnishes livestock to a meatpacker, shall have a lien, not

dependent upon possession, on the livestock and upon the identifiable proceeds and products thereof, for the unpaid part of the purchase price, or for the unpaid value of the livestock at the time of the transfer of possession if no purchase price has been agreed upon. The lien shall commence on the date of the transfer of possession of the livestock to the meatpacker and shall have priority over all other liens upon, and security interests in, the livestock and the identifiable proceeds and products thereof, without regard to the time of attachment or perfection of such other liens or security interests and shall remain a lien upon the livestock and the identifiable proceeds and products thereof notwithstanding sale, exchange, or other disposition thereof.

(b) Notwithstanding the provisions of subdivision (a), a buyer in the ordinary course of business, as that term is defined in subdivision (9) of Section 1201 of the Commercial Code, shall take free of such lien even though the buyer knows of the existence of the lien.

(c) Notwithstanding the provisions of subdivision (a), the lien shall cease to be of any force or effect after the expiration of 21 days from the date of delivery of the livestock unless a notice of lien is filed pursuant to subdivision (e), in which case the lien shall remain effective as long as such notice shall remain effective.

(d) No person shall have a lien pursuant to subdivision (a) to the extent that the person shall have made the livestock available to the meatpacker on credit terms.

(e) Any person selling or delivering livestock who claims a lien under this article shall file a statement with the Secretary of State and a copy thereof with the director, both within 21 days after delivery of the livestock to the meatpacker. The statement shall be in writing, verified by the oath of the person filing, and shall contain all of the following:

(1) The name and address of the person filing.

(2) A statement of the amount demanded by the person filing the statement after deducting all credits and offsets.

(3) The name and address of the meatpacker who received the livestock.

(4) A description of the livestock delivered to the meatpacker and the date of delivery.

(5) A statement that the amount claimed is a true and bona fide existing debt as of the date of the statement.

(6) A statement that the amount claimed is a true and bona fide existing debt as of the date on which payment was due for the livestock.

(f) Every statement that is filed shall be accompanied by the fees required by Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code in the case of a financing statement not on the standard form and shall remain effective for a period of five years from the date of filing.

SEC. 63. Section 3540.1 of the Government Code is amended to read:

3540.1. As used in this chapter:

(a) ''Board'' means the Public Employment Relations Board created pursuant to Section 3541.

(b) ''Certified organization'' or ''certified employee organization'' means an organization that has been certified by the board as the exclusive representative of the public school employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3544).

(c) ''Confidential employee'' means any employee who, in the regular course of his or her duties, has access to, or possesses information relating to, his or her employer's employer-employee relations.

(d) ''Employee organization'' means any organization that includes employees of a public school employer and that has as one of its primary purposes representing those employees in their relations with that public school employer. ''Employee organization'' shall also include any person that organization authorizes to act on its behalf.

(e) ''Exclusive representative'' means the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

(f) ''Impasse'' means that the parties to a dispute over matters within the scope of representation have reached a point in meeting and negotiating at which their differences in positions are so substantial or prolonged that future meetings would be futile.

(g) ''Management employee'' means any employee in a position having significant responsibilities for formulating district policies or administering district programs. Management positions shall be designated by the public school employer, subject to review by the Public Employment Relations Board.

(h) ''Meeting and negotiating'' means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation and the execution, if requested by either party, of a written document incorporating any agreements reached, which document shall, when accepted by the exclusive representative and the public school employer, become binding upon both parties and, notwithstanding Section 3543.7, shall not be subject to subdivision 2 of Section 1667 of the Civil Code. The agreement may be for a period not to exceed three years.

(i) ''Organizational security'' means either of the following:

(1) An arrangement pursuant to which a public school employee may decide whether or not to join an employee organization, but that requires

him or her, as a condition of continued employment if he or she does join, to maintain his or her membership in good standing for the duration of the written agreement. However, no such arrangement shall deprive the employee of the right to terminate his or her obligation to the employee organization within a period of 30 days following the expiration of a written agreement.

(2) An arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization for the duration of the agreement or a period of three years from the effective date of the agreement, whichever comes first.

(j) ''Public school employee'' or ''employee'' means any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees.

(k) ''Public school employer'' or ''employer'' means the governing board of a school district, a school district, a county board of education, a county superintendent of schools, or a charter school that has declared itself a public school employer pursuant to subdivision (b) of Section 47611.5 of the Education Code.

(*l*) ''Recognized organization'' or ''recognized employee organization'' means an employee organization that has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544).

(m) ''Supervisory employee'' means any employee, regardless of job description, having 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 assign work to and direct them, or to adjust their grievances, or effectively recommend such action, if, in connection with the foregoing functions, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

SEC. 64. Section 7222 of the Government Code is amended to read:

7222. The Secretary of State shall cause the notice to be marked, held and indexed in accordance with the provisions of Section 9519 of the Commercial Code as if the notice were a financing statement within the meaning of that code.

SEC. 65. Section 15346.9 of the Government Code is amended to read:

15346.9. In addition to the duties specified in Section 15346.5, the council shall do both of the following:

(a) At the request of a council member, the council may review actions or programs by state agencies that may affect military base retention and reuse and offer comments or suggest changes to better integrate these actions or programs into the overall state strategic plan required pursuant to subdivision (a) of Section 15346.5.

(b) (1) The council shall prepare a study considering strategies for the long-term protection of lands adjacent to military bases from development that would be incompatible with the continuing missions of those bases. The study shall include the effects of local land use encroachment, environmental impact considerations, and population growth issues. The study shall recommend basic criteria to assist local governments in identifying lands where incompatible development may adversely impact the long-term missions of these bases. The study shall also identify potential mechanisms, including recommendations for changes in law at the local or state level, to address these issues. In conducting this study, the council may use the Naval Air Station at Lemoore and Edwards Air Force Base as case studies.

(2) The council shall hold public hearings on this study, including at least one in the vicinity of either Lemoore or Edwards. Notwithstanding Section 7550.5, the council shall prepare and submit to the Governor and the Legislature by November 30, 2000, a report on this study with any recommendations.

SEC. 66. Section 18935 of the Government Code is amended to read:

18935. The board may refuse to examine or, after examination, may refuse to declare as an eligible or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories:

(a) Lacks any of the requirements established by the board for the examination or position for which he or she applies.

(b) At the time of examination has permanent status in a position of equal or higher class than the examination or position for which he or she applies.

(c) Is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment.

(d) Is addicted to the use of intoxicating beverages to excess.

(e) Is addicted to the use of controlled substances.

(f) Has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude.

(g) Has been guilty of infamous or notoriously disgraceful conduct.

(h) Has been dismissed from any position for any cause which would be a cause for dismissal from the state service.

(i) Has resigned from any position not in good standing or in order to avoid dismissal.

(j) Has intentionally attempted to practice any deception or fraud in his or her application, in his or her examination, or in securing his or her eligibility.

(k) Has waived appointment three times after certification from the same employment list.

(*l*) Has failed to reply within a reasonable time, as specified by the board, to communications concerning his or her availability for employment.

(m) Has made himself or herself unavailable for employment by requesting that his or her name be withheld from certification.

(n) Is, in accordance with board rule, found to be unsuited or not qualified for employment.

(o) Has engaged in unlawful reprisal or retaliation in violation of Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1, as determined by the board or the court.

SEC. 67. Section 19827.3 of the Government Code is amended to read:

19827.3. In order for the state to recruit skilled firefighters for the California Department of Forestry and Fire Protection, it is the policy of the state to consider prevailing salaries and benefits prior to making salary recommendations. In order to provide comparability in pay, the Department of Personnel Administration shall take into consideration the salary and benefits of other jurisdictions employing 75 or more full-time firefighters who work in California.

SEC. 68. 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. 69. Section 20397 of the Government Code is amended to read:

20397. ''State peace officer/firefighter member'' also includes:

(a) 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.

(b) 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. 70. 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. 71. Section 21070.5 of the Government Code is amended 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 and 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 day 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. 72. 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. 73. Section 21073.7 of the Government Code is amended 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 day 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. 74. 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 for 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. 75. 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 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 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. 76. Section 22825.01 of the Government Code is amended 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 Health Care 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 were 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 at which 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 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, coinsurance, and other out-of-pocket health-related expenses that would otherwise be covered if the employee were enrolled in a board-approved health maintenance organization plan.

These subsidies and reimbursements shall be provided according to a plan determined by the department that 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 no board-approved health maintenance organization plan available and open to enrollment by the annuitant, either (1) 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 (2) 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.

(i) 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. 77. Section 22875 of the Government Code is amended to read:

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, or 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.

SEC. 78. Section 31469.5 of the Government Code is amended to read:

31469.5. (a) This section shall be applicable in the retirement system of any county of the 10th class, as defined by Sections 28020 and 28031, as amended by Chapter 1204 of the Statutes of 1971, if the board of supervisors executes a memorandum of understanding with the employee representatives and adopts, by majority vote, a resolution providing for safety status for probation officers, as provided in Section 31469.4.

(b) The purpose of this section is to provide optional safety status for probation officers employed on or before March 1, 1991. Notwithstanding Section 31558.6, that option shall be exercised within 120 days from the effective date of the implementation of Section 31469.4, together with the option to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member, if this section had then been in effect.

(c) Except as otherwise provided in this section, the retirement benefits of existing probation officers who elect to transfer from general membership in the county retirement system to safety membership shall be implemented pursuant to Section 31484.5, except that:

(1) The definition of final compensation in Section 31462.1 shall no longer apply to probation officers electing safety status; instead, the definition of final compensation in Section 31462 shall apply at the date of retirement to all credited safety service regardless of previous service under Section 31462.1. However, the board of supervisors may adopt a resolution providing that the definition of final compensation contained in Section 31462.1 shall apply to certain probation officers electing safety status who are specifically identified in the resolution and who are retiring on or after the date specified in the resolution.

(2) For employees entitled to a cost-of-living adjustment upon retirement, Article 16.5 (commencing with Section 31870) shall apply, except that the increase in the allowance shall not exceed a maximum of 3 percent in any given year credited as safety membership. An employee who elects safety retirement under Section 31469.4 and who thereby waives his or her entitlement to a higher cost-of-living allowance shall be deemed to have waived the higher cost-of-living allowance with regard to all previous service credited as safety service at the date of retirement, regardless of previous service under any other provision, and shall be deemed to have relinquished any right to the higher cost-of-living allowance without refund of contributions therefor, except as determined by the board of supervisors.

(3) An employee who elects safety retirement under Section 31469.4 may elect to receive credit as a safety member for all or part of the time during which his or her duties would have made him or her eligible to become a safety member if this section had then been in effect as provided in Section 31639.7, except that an election to receive part credit may be exercised only in multiples of five years of service. A member who elects to receive credit for only a part of that county service shall elect that county service latest in time and may not receive credit for any portion of county service prior in time to any county service for which he or she does not elect to receive credit.

(4) A member not previously within the safety membership category who elects to receive credit for all or part of the time during which the member's duties would have made him or her eligible to become a safety member if this section had then been in effect shall pay into the retirement system the amount that would have had to be contributed by the employer to fund the employer's liability for safety membership and an amount equal to the difference between the employee's contributions actually made during the time for which he or she claims credit and the contributions the member would have made during that period if he or she had been in safety status during that period.

(d) All probation officers in Tier III who elect to transfer from general membership in the county retirement system to safety membership

pursuant to this section shall be placed in Tier II regardless of their status prior to selecting Tier III benefits.

(e) All persons hired after the effective date of implementation of Section 31469.4 shall, upon retirement, have his or her cost-of-living allowance and final compensation computed in accordance with this section.

SEC. 79. Section 51298 of the Government Code is amended to read:

51298. It is the intent of the Legislature in enacting this chapter to provide local governments opportunities to attract large manufacturing facilities to invest in their communities and to encourage industries such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others to locate and invest in those facilities in California.

(a) Commencing in the 1998–99 fiscal year, the governing body of a county, city and county, or city, may, by means of an ordinance or resolution approved by a majority of its entire membership, elect to establish a capital investment incentive program. In any county, city and county, or city in which the governing body has so elected, the county, city and county, or city shall, upon the approval by a majority of the entire membership of its governing body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after the date upon which the qualified manufacturing facility commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent's payment of a community services fee.

(b) For purposes of this section:

(1) ''Qualified manufacturing facility'' means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds one hundred fifty million dollars ($150,000,000). Compliance with this subparagraph shall be certified by the Trade and Commerce Agency upon the agency's approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the agency in writing in the time and manner as specified by the agency.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by either of the following:

(i) A business described in Codes 3500 to 3899, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, except that ''January 1, 1997,'' shall be substituted for ''January 1, 1994,'' in each place in which it appears.

(ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a geothermal electric generating plant that is integral to the recovery process by providing electricity for it.

(D) The proponent is either currently engaged in commercial production or engaged in the perfection of the manufacturing process, or the perfection of a product intended to be manufactured.

(2) ''Proponent'' means a party or parties that meet all of the following criteria:

(A) The party is named in the application to the county, city and county, or city within which the qualified manufacturing facility would be located for a permit to construct a qualified manufacturing facility.

(B) The party will be the fee owner of the qualified manufacturing facility upon the completion of that facility. Notwithstanding the previous sentence, the party may enter into a sale-leaseback transaction and nevertheless be considered the proponent.

(C) If a proponent that is receiving capital investment incentive amounts subsequently leases the subject qualified manufacturing facility to another party, the lease may provide for the payment to that lessee of any portion of a capital investment incentive amount. Any lessee receiving any portion of a capital investment incentive amount shall also be considered a proponent for the purposes of subdivision (d).

(3) ''Capital investment incentive amount'' means, with respect to a qualified manufacturing facility for a relevant fiscal year, an amount up to or equal to the amount of ad valorem property tax revenue derived by

the participating local agency from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) that is in excess of one hundred fifty million dollars ($150,000,000).

(4) ''Manufacturing'' means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(c) A city, special district, or school district may, upon the approval by a majority of the entire membership of its governing body, pay to the county, city and county, or city an amount equal to the amount of ad valorem property tax revenue allocated to that city, special district, or school district, but not the actual allocation, derived from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) of subdivision (b) that is in excess of one hundred fifty million dollars ($150,000,000).

(d) A proponent whose request for the payment of capital investment incentive amounts is approved by an electing county, city and county, or city shall enter into a community services agreement with that county, city and county, or city that includes, but is not limited to, all of the following provisions:

(1) A provision requiring that a community services fee be remitted by the proponent to the county, city and county, or city, in each fiscal year subject to the agreement, in an amount that is equal to 25 percent of the capital investment incentive amount calculated for that proponent for that fiscal year, except that in no fiscal year shall the amount of the community services fee exceed two million dollars ($2,000,000).

(2) A provision specifying the dates in each relevant fiscal year upon which payment of the community services fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the community services fee amount.

(3) A provision specifying the procedures and rules for the determination of underpayments or overpayments of a community services fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment.

(4) A provision specifying that a proponent is ineligible to receive a capital investment incentive amount if that proponent is currently delinquent in the payment of any portion of a community services fee amount, if the qualified manufacturing facility is constructed in a manner materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a

qualified manufacturing facility meeting the requirements of paragraph (1) of subdivision (b). If a proponent becomes ineligible to receive a capital investment incentive amount as a result of an agreement provision included pursuant to this subparagraph, the running of the number of consecutive fiscal years specified in an agreement made pursuant to subdivision (a) is not tolled during the period in which the proponent is ineligible.

(5) A provision that sets forth a job creation plan with respect to the relevant qualified manufacturing facility. The plan shall specify the number of jobs to be created by that facility, and the types of jobs and compensation ranges to be created thereby. The plan shall also specify that for the entire term of the community services agreement, both of the following shall apply:

(A) All of the employees working at the qualified manufacturing facility shall be covered by an employer-sponsored health benefits plan.

(B) The average weekly wage, exclusive of overtime, paid to all of the employees working at the qualified manufacturing facility, who are not management or supervisory employees, shall be not less than the state average weekly wage.

For the purpose of this subdivision, ''state average weekly wage'' means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year.

(6) (A) In the case in which the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, a provision that requires the recapture of any portion of any capital investment incentive amounts previously paid to the proponent equal to the lesser of the following:

(i) All of the capital investment incentive amounts paid to the proponent, less all of the community services fees received from the proponent, and less any capital investment incentive amounts previously recaptured.

(ii) The last capital investment incentive amount paid to the proponent, less the last community services fee received from the proponent, multiplied by 40 percent of the number of years remaining in the community services agreement, but not to exceed 10 years, and less any capital investment incentive amounts previously recaptured.

(B) If the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, the county, city and county, or city may, upon a finding that good cause exists, waive any portion of the recapture of any capital investment incentive amount due under this subdivision. For the purpose of this subdivision, good cause includes, but is not limited to, the following:

(i) The proponent has sold or leased the property to a person who has entered into an agreement with the county, city and county, or city to assume all of the responsibilities of the proponent under the community services agreement.

(ii) The qualified manufacturing facility has been rendered inoperable and beyond repair as a result of an act of God.

(C) For purposes of this subdivision, failure to operate a qualified manufacturing facility as required by the community services agreement includes, but is not limited to, failure to establish the number of jobs specified in the jobs creation plan created pursuant to paragraph (5).

(e) (1) Each county, city and county, or city that elects to establish a capital investment incentive program shall notify the Trade and Commerce Agency of its election to do so no later than June 30th of the fiscal year in which the election was made.

(2) In addition to the information required to be reported pursuant to paragraph (1), each county, city and county, or city that has elected to establish a capital investment incentive program shall notify the Trade and Commerce Agency each fiscal year no later than June 30th of the amount of any capital investment incentive payments made and the proponent of the qualified manufacturing facility to whom the payments were made during that fiscal year.

(3) The Trade and Commerce Agency shall compile the information submitted by each county, city and county, and city pursuant to paragraphs (1) and (2) and submit a report to the Legislature containing this information no later than October 1, every two years commencing October 1, 2000.

SEC. 80. 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 that 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 a reverse repurchase agreement or a 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 that 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. 81. 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 that 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 that 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 a reverse repurchase agreement or a 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 that 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. 82. Section 54985 of the Government Code is amended to read:

54985. (a) Notwithstanding any other provision of law that prescribes an amount or otherwise limits the amount of a fee or charge that may be levied by a county, a county service area, or a county waterworks district governed by a county board of supervisors, a county board of supervisors shall have the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied. The fee or charge may reflect the average cost of providing any product or service or enforcing any regulation. Indirect costs that may be reflected in the cost of providing any product or service or the cost of enforcing any regulation shall be limited to those items that are included in the federal Office of Management and Budget Circular A-87 on January 1, 1984.

(b) If any person disputes whether a fee or charge levied pursuant to subdivision (a) is reasonable, the board of supervisors may request the county auditor to conduct a study and to determine whether the fee or charge is reasonable.

Nothing in this subdivision shall be construed to mean that the county shall not continue to be subject to fee review procedures required by Article XIII B of the California Constitution.

(c) This chapter shall not apply to any of the following:

(1) Any fee charged or collected by a court clerk pursuant to Section 26820.4, 26823, 26824, 26826, 26827, 26827.4, 26830, 72054, 72055, 72056, 72059, 72060, or 72061 of the Government Code or Section 103470 of the Health and Safety Code, and any other fee or charge that may be assessed, charged, collected, or levied pursuant to law for filing judicial documents or for other judicial functions.

(2) Any fees charged or collected pursuant to Chapter 2 (commencing with Section 6100) of Division 7 of Title 1.

(3) Any standby or availability assessment or charge.

(4) Any fee charged or collected by a county agricultural commissioner.

(5) Any fee charged or collected pursuant to Article 2.1 (commencing with Section 12240) of Chapter 2 of Division 5 of the Business and Professions Code.

(6) Any fee charged or collected by a county recorder or local registrar for filing, recording, or indexing any document, performing any service, issuing any certificate, or providing a copy of any document pursuant to Section 2103 of the Code of Civil Procedure, Section 27361, 27361.1,

27361.2, 27361.3, 27361.4, 27361.8, 27364, 27365, or 27366 of the Government Code, Section 103625 of the Health and Safety Code, or Section 9525 of the Commercial Code.

(7) Any fee charged or collected pursuant to Article 7 (commencing with Section 26720) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code.

SEC. 83. Section 69915 of the Government Code is amended 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, and 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. 84. Section 72114.2 of the Government Code is amended 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 that 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. 85. 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 of 1974.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

SEC. 86. Section 1357.50 of the Health and Safety Code is amended to read:

1357.50. For purposes of this article:

(a) ''Health benefit plan'' means any individual or group insurance policy or health care service plan contract that provides medical, hospital, and surgical benefits. The term does not include accident only, credit, disability income, coverage of Medicare services pursuant to contracts with the United States government, Medicare supplement, long-term care insurance, dental, vision, coverage issued as a supplement to liability insurance, 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) ''Late enrollee'' means an eligible employee or dependent who has declined health coverage under a health benefit plan offered through employment or sponsored by an employer at the time of the initial enrollment period provided under the terms of the health benefit plan, and who subsequently requests enrollment in a health benefit plan of that

employer, provided that the initial enrollment period shall be a period of at least 30 days. However, an eligible employee or dependent shall not be considered a late enrollee if any of the following is applicable:

(1) The individual meets all of the following requirements:

(A) The individual was covered under another employer health benefit plan or no share-of-cost Medi-Cal coverage at the time the individual was eligible to enroll.

(B) The individual certified, at the time of the initial enrollment, that coverage under another employer health benefit plan or no share-of-cost Medi-Cal coverage was the reason for declining enrollment provided that, if the individual was covered under another employer health benefit plan, the individual was given the opportunity to make the certification required by this subdivision and was notified that failure to do so could result in later treatment as a late enrollee.

(C) The individual has lost or will lose coverage under another employer health benefit plan as a result of termination of employment of the individual or of a person through whom the individual was covered as a dependent, change in employment status of the individual or of a person through whom the individual was covered as a dependent, termination of the other plan's coverage, cessation of an employer's contribution toward an employee or dependent's coverage, death of a person through whom the individual was covered as a dependent, legal separation, divorce, or loss of no share-of-cost Medi-Cal coverage.

(D) The individual requests enrollment within 30 days after termination of coverage, or cessation of employer contribution toward coverage provided under another employer health benefit plan.

(2) The individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.

(3) A court has ordered that coverage be provided for a spouse or minor child under a covered employee's health benefit plan. The health benefit plan shall enroll a dependent child within 30 days after receipt of a court order or request from the district attorney, either parent or the person having custody of the child as defined in Section 3751.5 of the Family Code, the employer, or the group administrator. In the case of children who are eligible for medicaid, the State Department of Health Services may also make the request.

(4) The plan cannot produce a written statement from the employer stating that, prior to declining coverage, the individual or the person through whom the individual was eligible to be covered as a dependent was provided with, and signed acknowledgment of, explicit written notice in boldface type specifying that failure to elect coverage during the initial enrollment period permits the plan to impose, at the time of the individual's later decision to elect coverage, an exclusion from

coverage for a period of 12 months as well as a six-month preexisting condition exclusion, unless the individual meets the criteria specified in paragraph (1), (2), or (3).

(5) The individual is an employee or dependent who meets the criteria described in paragraph (1) and was under a COBRA continuation provision, and the coverage under that provision has been exhausted. For purposes of this section, the definition of ''COBRA'' set forth in subdivision (e) of Section 1373.621 shall apply.

(6) The individual is a dependent of an enrolled eligible employee who has lost or will lose his or her no share-of-cost Medi-Cal coverage and requests enrollment within 30 days of notification of this loss of coverage.

(7) The individual is an eligible employee who previously declined coverage under an employer health benefit plan and who has subsequently acquired a dependent who would be eligible for coverage as a dependent of the employee through marriage, birth, adoption, or placement for adoption, and who enrolls for coverage under that employer health benefit plan on his or her behalf, and on behalf of his or her dependent within 30 days following the date of marriage, birth, adoption, or placement for adoption, in which case the effective date of coverage shall be the first day of the month following the date the completed request for enrollment is received in the case of marriage, or the date of birth, or the date of adoption or placement for adoption, whichever applies. Notice of the special enrollment rights contained in this paragraph shall be provided by the employer to an employee at or before the time the employee is offered an opportunity to enroll in plan coverage.

(8) The individual is an eligible employee who has declined coverage for himself or herself or his or her dependents during a previous enrollment period because his or her dependents were covered by another employer health benefit plan at the time of the previous enrollment period. That individual may enroll himself or herself or his or her dependents for plan coverage during a special open enrollment opportunity if his or her dependents have lost or will lose coverage under that other employer health benefit plan. The special open enrollment opportunity shall be requested by the employee not more than 30 days after the date that the other health coverage is exhausted or terminated. Upon enrollment, coverage shall be effective not later than the first day of the first calendar month beginning after the date the request for enrollment is received. Notice of the special enrollment rights contained in this paragraph shall be provided by the employer to an employee at or before the time the employee is offered an opportunity to enroll in plan coverage.

(c) ''Preexisting condition provision'' means a contract provision that excludes coverage for charges or expenses incurred during a specified period following the enrollee's effective date of coverage, as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the effective date of coverage.

(d) ''Creditable coverage'' means:

(1) Any individual or group policy, contract, or program that is written or administered by a disability insurance company, nonprofit hospital service plan, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, 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.

(2) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(3) The medicaid program pursuant to Title XIX of the Social Security Act.

(4) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital and surgical care.

(5) 10 U.S.C.A. Chapter 55 (commencing with Section 1071) (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

(6) A medical care program of the Indian Health Service or of a tribal organization.

(7) A state health benefits risk pool.

(8) A health plan offered under 5 U.S.C.A. Chapter 89 (commencing with Section 8901) (Federal Employees Health Benefits Program (FEHBP)).

(9) 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.

(10) A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C.A. Sec. 2504(e)).

(11) 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)).

(e) ''Waivered condition'' means a contract provision that excludes coverage for charges or expenses incurred during a specified period of time for one or more specific, identified, medical conditions.

(f) ''Affiliation period'' means a period that, under the terms of the health benefit plan, must expire before health care services under the plan become effective.

SEC. 87. 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 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 5.55 (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, 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 5.55 (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 5.55 (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 order the plan to promptly offer and provide those health care services to the enrollee, or 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.

SEC. 88. Section 1368.04 of the Health and Safety Code is amended 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 5.55 (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.

SEC. 89. 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 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 5.55 (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.

SEC. 90. Section 1374.32 of the Health and Safety Code is amended to read:

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 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.

SEC. 91. Section 1386 of the Health and Safety Code is amended to read:

1386. (a) The director may, after appropriate notice and opportunity for a hearing, by order, suspend or revoke any license issued under this chapter to a health care service plan or assess administrative penalties if the director determines that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the director:

(1) The plan is operating at variance with the basic organizational documents as filed pursuant to Section 1351 or 1352, or with its published plan, or in any manner contrary to that described in, and reasonably inferred from, the plan as contained in its application for licensure and annual report, or any modification thereof, unless amendments allowing the variation have been submitted to, and approved by, the director.

(2) The plan has issued, or permits others to use, evidence of coverage or uses a schedule of charges for health care services which do not comply with those published in the latest evidence of coverage found unobjectionable by the director.

(3) The plan does not provide basic health care services to its enrollees and subscribers as set forth in the evidence of coverage. This subdivision shall not apply to specialized health care service plan contracts.

(4) The plan is no longer able to meet the standards set forth in Article 5 (commencing with Section 1367).

(5) The continued operation of the plan will constitute a substantial risk to its subscribers and enrollees.

(6) The plan has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter, any rule or regulation adopted by the director pursuant to this chapter, or any order issued by the director.

(7) The plan has engaged in any conduct that constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code.

(8) The plan has permitted, or aided or abetted any violation by an employee or contractor who is a holder of any certificate, license, permit, registration or exemption issued pursuant to the Business and Professions Code, or this code which would constitute grounds for discipline against the certificate, license, permit, registration, or exemption.

(9) The plan has aided or abetted or permitted the commission of any illegal act.

(10) The engagement of a person as an officer, director, employee, associate, or provider of the plan contrary to the provisions of an order issued by the director pursuant to subdivision (c) of this section or subdivision (d) of Section 1388.

(11) The engagement of a person as a solicitor or supervisor of solicitation contrary to the provisions of an order issued by the director pursuant to Section 1388.

(12) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in the plan, management company or affiliate, has been convicted of or pleaded nolo contendere to a crime, or committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this chapter. The director may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(13) The plan violates Section 510, 2056, or 2056.1 of the Business and Professions Code.

(14) The plan has been subject to a final disciplinary action taken by this state, another state, an agency of the federal government, or another country, for any act or omission that would constitute a violation of this chapter.

(15) The plan violates the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(c) (1) The director may prohibit any person from serving as an officer, director, employee, associate, or provider of any plan or solicitor

firm, or of any management company of any plan, or as a solicitor, if either of the following applies:

(A) The prohibition is in the public interest and the person has committed, caused, participated in, or had knowledge of a violation of this chapter by a plan, management company, or solicitor firm.

(B) The person was an officer, director, employee, associate, or provider of a plan or of a management company or solicitor firm of any plan whose license has been suspended or revoked pursuant to this section and the person had knowledge of, or participated in, any of the prohibited acts for which the license was suspended or revoked.

(2) A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to subdivision (d).

(d) A proceeding under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with subdivision (a) of Section 1397.

SEC. 92. Section 1507.3 of the Health and Safety Code is amended to read:

1507.3. (a) A residential facility that provides care to adults may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician or surgeon to remain in the facility when all of the following conditions are met:

(1) The facility agrees to retain the terminally ill resident and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

(2) The terminally ill resident has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident, and is in substantial compliance with regulations governing the operation of residential facilities that provide care to adults.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline

the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks authorized for a residential facility under this chapter.

(6) The facility has obtained the agreement of those residents who share the same room with the terminally ill resident to allow the hospice caregivers into their residence.

(b) At any time that the licensed hospice, the facility, or the terminally ill resident determines that the resident's condition has changed so that continued residence in the facility will pose a threat to the health and safety of the terminally ill resident or any other resident, the facility may initiate procedures for a transfer.

(c) Nothing in this section is intended to expand the scope of care and supervision for a residential facility, as defined in this chapter, that provides care to adults nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident as authorized by this section.

(d) Nothing in this section shall require any care or supervision to be provided by the residential facility beyond that which is permitted in this chapter.

(e) Nothing in this section is intended to expand the scope of life care contracts or the contractual obligation of continuing care retirement communities as defined in Section 1771.

(f) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice.

(g) The department, in consultation with the State Fire Marshal, shall develop and expedite implementation of regulations related to residents who have been diagnosed as terminally ill who remain in the facility and who are nonambulatory that ensure resident safety but also provide flexibility to allow residents to remain in the least restrictive environment.

(h) Nothing in this section shall be construed to relieve a licensed residential facility that provides care to adults of its responsibility, for purposes of allowing a resident who has been diagnosed as terminally ill to remain in the facility, to do both of the following:

(1) With regard to any resident who is bedridden, as defined in subdivision (b) of Section 1569.72, to, within 48 hours of the resident's retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.

(2) Secure a fire clearance approval from the city or county fire department, fire district, or any other local agency providing fire

protection services, or the State Fire Marshal, whichever has primary fire protection jurisdiction.

SEC. 93. Section 1596.7927 of the Health and Safety Code is amended to read:

1596.7927. (a) (1) There is hereby established a two-year pilot project in San Diego County, upon the adoption of a resolution to that effect by the City Council of San Diego. The program established for purposes of the pilot project authorized by this section shall be known as the ''6 to 6'' program.

(2) The mission of the ''6 to 6'' program shall encompass, but not be limited to, the following extended schoolday activities.

(A) Homework assistance.

(B) Academic enrichment.

(C) Reading.

(D) Tutoring.

(E) Creative and performing arts.

(F) Sports and recreational activities.

(b) The ''6 to 6'' program shall consist of an extended schoolday program that is operated by a community-based organization, child care agency, or other entity that has demonstrated the ability to provide services to schoolage children pursuant to a contract with a public school district or city. The ''6 to 6'' program shall meet all of the following conditions:

(1) The program shall be operated on a schoolsite that is in current use by the public school or school district that has collaborated with the City of San Diego for the purpose of providing an extended schoolday program. The program shall serve the children who regularly attend school within the district or districts, exclusively. The hours of operation shall begin before school no earlier than 6:00 a.m. and operate after school to 6:00 p.m., except for evening parent meetings that may be scheduled later than 6:00 p.m.

(2) The city shall ensure all of the following:

(A) That employees of the operator of the ''6 to 6'' program have had a criminal background check performed by the Department of Justice. In this regard, the city shall ensure that the name of and identifying data about each prospective employee has been submitted to the Department of Justice to determine if the individual is listed in the department's child abuse index maintained pursuant to Section 11170 of the Penal Code. The city may deny participation of an individual in the ''6 to 6'' program if a purported incident of child abuse is determined, after independent investigation, to be substantiated as provided in Section 1522.1. The results of the criminal background check and child abuse index review shall be maintained by the city for purposes of notification of future convictions or suspected child abuse incidents.

(B) That each operator of the ''6 to 6'' program is familiar with and follows health-related services procedures as specified in Section 101226 of Title 22 of the California Code of Regulations.

(C) That each operator of the ''6 to 6'' program maintains emergency information on each child that includes, but is not limited to, the telephone number of the child's parents or guardians, the telephone number of the child's physician or the name and telephone number of the child's health plan or contact person, and an alternative name and telephone number.

(3) Any individuals employed as site supervisors shall meet the center director qualifications specified in Section 101515 of Title 22 of the California Code of Regulations.

(4) All individuals employed by the ''6 to 6'' program shall be over the age of 18 years and shall meet, at a minimum, the minimum qualifications for an instructional aide established for purposes of Section 8483.4 of the Education Code, or the equivalent qualifications.

(5) All staff shall have training in cardiopulmonary resuscitation and first aid.

(6) All staff shall have a negative tuberculosis test or chest X-ray within the last three years.

(7) All staff shall be familiar with and adhere to the emergency procedures established by the school where the program is located.

(8) The contract with the city or school district shall include, but not be limited to, all of the following:

(A) A requirement that site directors meet the requirements for site directors of schoolage day care centers set forth in Section 1597.21.

(B) A requirement that the contractor require a child-to-staff ratio that is the pupil-to-staff ratio set forth in Section 8483.4 of the Education Code. The contract shall contain a provision that requires the contractor to maintain the minimum staffing ratio pursuant to this paragraph and shall contain protocols for maintaining required staffing ratios in the event of illness, accidents, and other emergencies and staffing breaks and other situations of absences.

(C) A requirement that the contractor comply with sign-in and sign-out regulations otherwise applicable by regulation to extended schoolday programs pursuant to Section 101529.1 of Title 22 of the California Code of Regulations.

(D) A complaint process established by the city with protocols that shall include a requirement that the contractor comply with all of the following:

(i) Post, in a visible location at all sites, the names and telephone numbers of the site director and city program contact to each participant's parents or guardian.

(ii) Provide to each participant's parents or guardian the names and telephone numbers specified in clause (i).

(E) A provision guaranteeing the city's timely investigation of accidents and complaints and providing for the immediate administrative leave of contracted employees pending the outcome of the investigation in cases relating to allegations involving a substantial threat to the health and safety of the children under the contractor's care. All parents shall be notified of the complaint process at the time of registration.

(9) All classrooms or portable classrooms utilized by the ''6 to 6'' program providing extended day care shall meet all standards applicable for use during the regular schoolday.

(c) The ''6 to 6'' program shall be planned through a neighborhood community collaborative partnership process that includes the city, school district, school administrators, government agencies, community organizations, parents, youth, and the private sector.

(d) In addition to the exemptions set forth in Section 1596.792, this chapter shall not apply to the ''6 to 6'' program if the contracting city ensures the program is operated in compliance with the requirements of this section.

(e) (1) The city shall secure the services of an independent entity to evaluate the ''6 to 6'' program. The Community Care Licensing Division of the department and the city shall agree upon the independent evaluator. The city shall bear the cost of the evaluation.

(2) The evaluation shall be conducted upon the completion of the pilot project and shall evaluate the health and safety of the participants in the ''6 to 6'' program, with a particular focus on children ages five to eight years, inclusive.

(3) The evaluation shall include, but not be limited to, the health and safety of the children, information on staff to pupil ratio, site and program monitoring, and extent and progress of participation, tutoring, literacy, and homework assistance.

(4) The independent evaluator designated pursuant to paragraph (1) shall have experience in program evaluation, with a preference for expertise in children's programs. The independent evaluator shall not have any conflicts of interest with the independent evaluator's duties pursuant to this section.

(5) The results of the evaluation shall be forwarded to the Legislature.

(6) The city shall maintain any records necessary in order for the evaluation to be completed. The city shall compare the results of the evaluation to local community care licensing data.

(f) No charges or costs associated with the provision of care shall be imposed upon participants in the ''6 to 6'' program.

(g) 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. 94. Section 13933 of the Health and Safety Code is amended and renumbered to read:

1374.34. (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.

SEC. 95. Section 25390.4 of the Health and Safety Code is amended to read:

25390.4. (a) A potentially responsible party may file a claim pursuant to paragraph (1) of subdivision (c) of Section 25390.3 only if all of the following apply:

(1) The site is listed pursuant to Section 25356.

(2) The department or the regional board has approved a final remedy for the site under Section 25356.1.

(3) The department and the potentially responsible party have entered into a written, enforceable cleanup agreement or order embodied in a consent order issued pursuant to Section 25355.5 or 25358.3, or the regional board and the potentially responsible party have entered into a written, enforceable cleanup agreement or order that provides for the completion of all response actions necessary at the site, conducted pursuant to this chapter and under the oversight and at the direction of the department or the regional board. The agreement shall provide for the payment by the potentially responsible party of the department's or the regional board's response costs.

(4) The potentially responsible party demonstrates, and the department or the regional board finds, that the potentially responsible party has and will have sufficient financial resources to complete all required response actions.

(5) The potentially responsible party is in compliance with the agreement provided in paragraph (3), and with any other applicable order or agreement pertaining to the potentially responsible party's obligations with respect to the site.

(6) The potentially responsible party has prepared and provided the information required under subdivision (b) of Section 25390.5.

(7) The claim for reimbursement is for the costs incurred for response actions that were subject to the oversight and approval of the department or the regional board.

(b) The administrator of the fund shall prescribe appropriate application forms and procedures for claims filed pursuant to paragraph (1) of subdivision (c) of Section 25390.3 that shall include all of the following:

(1) Requirements that the claimant provide, at a minimum, all of the following documentation:

(A) A sworn verification of the claim to the best of the information known to the claimant or within the claimant's possession or control.

(B) All records and information pertaining to the site and relevant to the ownership, operation, or control of the site, or to the ownership,

possession, generation, treatment, transportation, storage or disposal of a hazardous substance, pollutant, or contaminant at or in connection with the site, within the possession or control of the claimant, including, but not limited to, the information specified in subdivision (b) of Section 25358.1.

(C) Certification of all response costs that have been, or will be, incurred at the site by the potentially responsible party, and an estimate of the total cost of completion of the approved final remedy at the site.

(2) Procedures specifying that claims shall be filed only at the two following specific time periods during the performance of a response action:

(A) After the final remedy is selected under Section 25356.1.

(B) After the department or the regional board determines that the response action is complete. The department or the regional board shall not include operation and maintenance activities in determining whether the response action is complete under this subparagraph.

(c) The administrator of the fund shall annually, on a fiscal year basis, pay claims for reimbursement from the fund filed by potentially responsible parties under paragraph (1) of subdivision (c) of Section 25390.3, in accordance with the following procedures:

(1) Claims for funds available during each fiscal year shall be filed with the administrator by July 30 of that fiscal year.

(2) For sites with multiple responsible parties, all potentially responsible parties that have entered into the cleanup agreement specified in paragraph (3) of subdivision (a) of Section 25390.4 shall file a single claim.

(3) (A) The administrator shall allocate the money available in the fund for the fiscal year among the claims filed by the July 30 deadline. The allocation shall be based on the determination of the orphan share percentage at the facility under the process set forth in Section 25390.5, the long-term financial stability and short-term resources available in the fund, and the administrator's fiduciary duty with respect to the fund. Except as provided in subparagraph (B), the administrator shall pay claims for funds in the order in which they are received.

(B) Notwithstanding subparagraph (A), if an appropriation from the General Fund is made to the fund in any fiscal year, the administrator may alter the order of payment of claims required by subparagraph (A) by using funds appropriated from the General Fund to pay claims based on the threat to public health or the environment posed by a site or the need to improve economic and environmental conditions in redeveloping communities.

(4) The total amount allocated to any one site shall not exceed 10 percent of the total amount available each fiscal year in the fund. If, due to this limit or to the unavailability of funds, a claimant receives only

partial or no reimbursement of the orphan share paid by that claimant, the claim shall be paid in the following fiscal year and shall be given priority over all claims filed after the claim was initially received, subject to the discretion of the administrator set forth in paragraph (3).

(5) The administrator's proposed allocation shall be subject to public review and comment for 30 days.

(d) The state and the fund have no obligation to provide full reimbursement to a claimant. The fund shall be allocated at the discretion of the administrator, subject to the requirements of this article. In enacting this article, the Legislature intends that claimants be reimbursed only to the extent that money is available in the fund and is allocated to the claimant by the administrator.

SEC. 96. Section 32121.7 of the Health and Safety Code is amended to read:

32121.7. Notwithstanding any other provision of law, the transfer of assets by El Camino Hospital, a California nonprofit public benefit corporation (''El Camino Hospital-Corporation'') that owns and operates El Camino Hospital, located in the City of Mountain View, pursuant to a transfer and ground lease from the El Camino Hospital District pursuant to subdivision (p) of Section 32121, is subject to this section.

(a) Before El Camino Hospital-Corporation transfers 50 percent or more of its assets, at fair market value, to one or more corporations, trusts, associations, partnerships, limited liability companies, or other entities or persons, in sum or by increment, the Board of Directors of El Camino Hospital District shall, by resolution, submit to the voters of the El Camino Hospital District a measure proposing the transfer. The measure shall be placed on the ballot of the special election held upon the request of the El Camino Hospital District or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the Board of El Camino Hospital District. If a majority of the voters voting on the measure vote in favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(b) El Camino Hospital-Corporation may transfer, for the benefit of the community served by the El Camino Hospital District, in the absence of adequate consideration, any part of the assets of El Camino Hospital-Corporation, including without limitation, the El Camino Hospital, the real property, equipment and other fixed assets, current assets, and cash, relating to the operation of El Camino Hospital to one or more nonprofit corporations, trusts, or associations to operate and maintain the assets.

(1) Any transfer of 50 percent or more of El Camino Hospital-Corporation's assets in sum or by increment, pursuant to this subdivision shall be deemed to be for the benefit of the community served by the El Camino Hospital District only if all of the following occur:

(A) The transfer agreement and all arrangements necessary thereto are approved by the Board of Directors of El Camino Hospital District, and the agreement and arrangements are fully discussed in advance of the board's decision to transfer the assets of El Camino Hospital-Corporation, in at least five properly noticed open and public meetings of the Board of Directors of El Camino Hospital District in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(B) The transfer agreement provides that the El Camino Hospital District shall approve all initial board members of the nonprofit corporation, trust, or association, and any subsequent board members as may be specified in the transfer agreement.

(C) The transfer agreement provides that all assets transferred to the nonprofit corporation, trust, or association, and all assets accumulated by the nonprofit corporation, trust, or association during the term of the transfer agreement arising out of or from the operation of the transferred assets shall be transferred back to the El Camino Hospital District upon termination of the transfer agreement, including any extension of the transfer agreement.

(D) The transfer agreement commits the nonprofit corporation, trust, or association to operate and maintain the assets of El Camino Hospital-Corporation for the benefit of the community served by the El Camino Hospital District.

(E) The transfer agreement requires that any funds received from the El Camino Hospital-Corporation at the outset of the agreement or any time thereafter during the term of the agreement be used only to reduce the El Camino Hospital-Corporation indebtedness, to acquire needed equipment for the El Camino Hospital-Corporation health care facilities, to operate, maintain, and make needed capital improvements to those health care facilities, to provide supplemental health care services or facilities for the communities served by the El Camino Hospital District, or to conduct other activities that would further a valid public purpose if undertaken directly by the El Camino Hospital District.

(2) A transfer of 33 percent or more but less than 50 percent of the El Camino Hospital-Corporation's assets, in sum or by increment, pursuant to this subdivision shall be deemed to be for the benefit of the communities served by the El Camino Hospital District only if both of the following occur:

(A) The transfer agreement and all arrangements necessary thereto are approved by the Board of Directors of El Camino Hospital District and the agreement and arrangements are fully discussed in advance of the board's decision to transfer the assets of El Camino Hospital-Corporation in at least two properly noticed open and public meetings of the Board of Directors of El Camino Hospital District in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(B) The transfer agreement meets all of the requirements of subparagraphs (B) to (E), inclusive, of paragraph (1).

(3) A transfer of 10 percent or more but less than 33 percent of the El Camino Hospital-Corporation's assets, in sum or by increment, pursuant to this subdivision shall be deemed to be for the benefit of the communities served by the El Camino Hospital District only if both of the following occur:

(A) The transfer agreement and all arrangements necessary thereto are approved by the Board of Directors of El Camino Hospital District and the agreement and arrangements are fully discussed in advance of the board's decision to transfer the assets of El Camino Hospital-Corporation in at least two properly noticed open and public meetings of the Board of Directors of El Camino Hospital District in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(B) The transfer agreement meets all of the requirements of subparagraphs (C) to (E), inclusive, of paragraph (1).

(4) Before El Camino Hospital-Corporation transfers, pursuant to this subdivision, 50 percent or more of its assets to one or more nonprofit corporations, trusts, or associations, in sum or by increment, the Board of Directors of El Camino Hospital District shall, by resolution, submit to the voters of the El Camino Hospital District a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of El Camino Hospital District or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the El Camino Hospital District. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(5) Notwithstanding any other provision of this subdivision, El Camino Hospital-Corporation shall not transfer any portion of its assets to a private nonprofit corporation, trust, or association that is owned or

controlled by a religious creed, church, or sectarian denomination in the absence of adequate consideration.

(c) If the El Camino Hospital-Corporation board has previously transferred less than 50 percent of its assets pursuant to this subdivision, before any additional assets are transferred, the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets.

(d) For purposes of this section, a ''transfer'' means the transfer of ownership of the assets of El Camino Hospital-Corporation. A lease of the real property or the tangible personal property of El Camino Hospital District shall not be subject to this section except as required under Section 32121.4 or Section 32121.8.

(e) If El Camino Hospital District requests a special election pursuant to subdivision (a) or (b) it shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(f) The limitations set forth in subdivisions (a) and (b) shall not apply to any transfers, sales, leases, or other assignments of assets from El Camino Hospital-Corporation to El Camino Hospital District or entities controlled by El Camino Hospital District, provided that in the case of a transfer to an entity controlled by El Camino Hospital District, that entity shall continue to be governed by this section, imposing the same requirements on such entity as are imposed on El Camino Hospital-Corporation.

(g) Nothing in this section shall limit, modify, or otherwise alter the requirements imposed on El Camino Hospital-Corporation as a nonprofit corporation under the Corporations Code, including Attorney General notice and consent requirements if applicable.

SEC. 97. Section 33333.6 of the Health and Safety Code is amended to read:

33333.6. The limitations of this section shall apply to every redevelopment plan adopted on or before December 31, 1993.

(a) (1) The time limit on the establishing of loans, advances, and indebtedness adopted pursuant to paragraph (2) of subdivision (a) of Section 33333.2 or paragraph (2) of subdivision (a) of Section 33333.4 shall not exceed 20 years from the adoption of the redevelopment plan or January 1, 2004, whichever is later. This limit, however, shall not prevent agencies from incurring debt to be paid from the Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's housing obligations under Section 33413. This limit shall not prevent agencies from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and

the time during which the indebtedness is to be repaid does not exceed the date on which the indebtedness would have been paid.

(2) The time limitation established by this subdivision may be extended, only by amendment of the redevelopment plan, after the agency finds, based on substantial evidence, that: (A) significant blight remains within the project area, and (B) this blight cannot be eliminated without the establishment of additional debt. However, this amended time limitation may not exceed 10 years from the time limit established pursuant to this subdivision or the time limit on the effectiveness of the plan established pursuant to subdivision (b), whichever is earlier.

(b) The effectiveness of every redevelopment plan to which this section applies shall terminate at a date which shall not exceed 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness and to enforce existing covenants, contracts, or other obligations.

(c) Except as provided in subdivisions (g) and (h), a redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision (b).

(d) (1) If plans that had different dates of adoption were merged on or before December 31, 1993, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan. If an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by this section shall commence, with respect to the redevelopment plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment.

(2) If plans that had different dates of adoption are merged on or after January 1, 1994, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan.

(e) (1) Unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time limit established by this section or to establish time limits that do not exceed the provisions of subdivision (a), (b), or (c).

(2) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(f) (1) If a redevelopment plan adopted prior to January 1, 1994, contains one or more limitations required by this section, and the limitation does not exceed the applicable time limit required by this section, this section shall not be construed to require an amendment of this limitation.

(2) A redevelopment plan adopted prior to January 1, 1994, that has a limitation shorter than the terms provided in this section may be amended by a legislative body by adoption of an ordinance on or after January 1, 1999, but on or before December 31, 1999, to extend the limitation, provided that the plan as so amended does not exceed the terms provided in this section. The ordinance authorized by this subdivision shall not be used to extend a limitation pursuant to the authority in paragraph (2) of subdivision (a). In adopting this ordinance, neither the legislative body nor the agency is required to comply with Section 33354.6 or Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(g) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit allocation of taxes to an agency to the extent required to eliminate project deficits created under subdivision (e) of Section 33320.5, subdivision (g) of Section 33334.6, or subdivision (d) of Section 33487, in accordance with the plan adopted pursuant thereto for the purpose of eliminating the deficits or to implement a replacement housing program pursuant to Section 33413. In the event of a conflict between these limitations and the obligations under Section 33334.6 or to implement a replacement housing program pursuant to Section 33413, the legislative body shall amend the ordinance adopted pursuant to this section to modify the limitations to the extent necessary to permit compliance with the plan adopted pursuant to subdivision (g) of Section 33334.6 and to allow full expenditure of moneys in the agency's Low and Moderate Income Housing Fund in accordance with Section 33334.3 or to permit implementation of the replacement housing program pursuant to Section 33413. The procedure for amending the ordinance pursuant to this subdivision shall be the same as for adopting the ordinance under subdivision (e).

(h) This section shall not be construed to affect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement entered into pursuant to Section 33401, authorized by the legislative body, or the agency pursuant to this part, prior to January 1, 1994. This section shall not be construed to affect the right of an agency to receive property taxes, pursuant to Section 33670, to pay the bond, indebtedness, or other obligation.

(i) A redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670, with respect to a redevelopment plan adopted prior to January 1, 1994, after the date identified in subdivision (c) or the date identified in the redevelopment plan, whichever is earlier, except as provided in paragraph (2) of subdivision (f) or in subdivision (h).

(j) The Legislature finds and declares that the amendments made to this section by the act that adds this subdivision are intended to add limitations to the law on and after January 1, 1994, and are not intended to change or express legislative intent with respect to the law prior to that date. It is not the intent of the Legislature to affect the merits of any litigation regarding the ability of a redevelopment agency to sell bonds for a term that exceeds the limit of a redevelopment plan pursuant to law that existed prior to January 1, 1994.

(k) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by Section 33333.2.

SEC. 98. Section 33334.17 of the Health and Safety Code is amended to read:

33334.17. (a) The Legislature finds and declares that the cost and availability of land, construction costs, geophysical and environmental constraints, household incomes, the market for affordable housing, commuting patterns, and other related factors make it difficult for some communities to provide their share of regional housing needs for persons and households at all income levels. While the Legislature finds that each community has a moral and legal obligation to meet these needs, the Legislature recognizes that there are instances where the use of housing funds in one community will result in the construction or rehabilitation of more housing units than in another community. For the sole purpose of increasing the state's supply of affordable housing, it is, therefore, necessary and appropriate that agencies in these communities be permitted, under specified conditions, to use a portion of the moneys in their Low and Moderate Income Housing Funds outside these communities.

(b) Notwithstanding subdivision (c) of Section 33334.3 or Section 33670, an agency may, not more than once every five years, use up to 20 percent of the moneys in its Low and Moderate Income Housing Fund at any one time to develop housing outside the territorial jurisdiction of

the agency, pursuant to this section. In determining the amount of funds that can be transferred pursuant to this section, the agency may transfer up to 20 percent of the balance of its Low and Moderate Income Housing Fund moneys reflected in the accounts of the agency at the end of the previous fiscal year, or 20 percent of the average balance of its Low and Moderate Income Housing Fund moneys reflected in the accounts of the agency at the end of each of the previous two years, whichever is greater.

(c) Each of the following conditions shall be met and described in a mutually acceptable, binding contract between the donor agency, the legislative body of the donor community, and the legislative body of the receiving community:

(1) Moneys from the fund shall be used in the receiving community to pay for the direct costs of constructing, rehabilitating, or otherwise assisting housing units which are affordable, for at least 40 years, to lower income households and very low income households, as defined in Sections 50079.5 and 50105. The donor agency or the receiving community shall not spend money in a Low and Moderate Income Housing Fund in any way which is inconsistent with the requirements of Section 33334.3. The receiving community shall be subject to the same replacement requirements provided in Section 33413 and any relocation requirements applicable pursuant to Section 7260 of the Government Code.

(2) A donor agency's use of this section shall result in the development of a greater number of dwelling units and the accumulation of more financial and nonfinancial resources in the receiving community than if the moneys had been spent in the jurisdiction of the donor agency.

(3) The receiving community shall construct, rehabilitate, or assist housing units within three years of the date it first receives moneys from the donor agency pursuant to this section. This requirement shall be met by documenting, for newly constructed units, that a building permit has been issued and all fees have been paid or, for rehabilitated or assisted units, that rehabilitation has been completed or assistance has been provided.

(4) Moneys from the donor agency shall not be spent for administrative costs or offsite improvements.

(5) The contract shall not place a financial burden on the receiving community.

(6) The community of the donor agency shall have, in the current or previous housing element cycle, met 50 percent or more of its share of the region's affordable housing needs, as defined in Section 65584 of the Government Code, in the very low and lower income categories of income groups defined in Section 50052.5. The receiving community shall have, in the current or previous housing element cycle, met 20 percent or more of its share of the region's affordable housing needs, as

defined in Section 65584 of the Government Code, in the very low and lower income categories of income groups defined in Section 50052.5.

(7) The donor agency and the receiving community shall have agreed upon mutually acceptable terms and conditions which provide for the receiving community's reimbursement of service and public facilities costs related to any new dwelling units constructed, rehabilitated, or otherwise assisted in the receiving community using the donor agency's funds. The contract shall include a plan and schedule for timely construction, rehabilitation, or assistance of dwelling units, including, in addition to site identification, identification of and timeframes for applying for sufficient subsidy or mortgage financing if units will need a subsidy or mortgage financing, and a finding that sufficient services and public facilities will be provided.

(8) The Attorney General of the State of California or any other interested person shall have authority to enforce the terms of the contract.

(9) If the agency is the agency of a county, the receiving community shall be a city within that county. If the agency is the agency of a city, the receiving community shall be another city in the same county or the county itself. A donor agency may only transfer its funds to a receiving community that is contiguously situated or within five miles of the territory of the community of the donor agency. The sites for the housing to be constructed, rehabilitated, or assisted with transferred funds shall be in the receiving community and within the same housing market area as the jurisdiction of the donor agency. As used in this section, ''housing market area'' means an area determined by a council of governments or by the department pursuant to Section 65584 of the Government Code and based upon market demand for housing, employment opportunities, the availability of suitable sites and public facilities, and commuting patterns. A city or county shall use the same methodology as used by the council of governments pursuant to subdivision (a) of, or by the department pursuant to subdivision (b) of, Section 65584 of the Government Code.

(10) The donor agency shall find that the use of the funds of the donor agency in the receiving community will be of benefit to the project.

(11) No moneys shall be transferred from an agency that has, pursuant to Section 33413, replacement housing requirements that must be met during the preceding three years, unless sufficient moneys are identified to meet those needs.

(12) No moneys shall be transferred from a project area that has an indebtedness to its low- and moderate-income housing fund pursuant to Section 33334.6.

(13) A receiving city or county shall separately account for all moneys transferred and expenditures made pursuant to this section. The

receiving city or county shall have the same annual reporting requirements as a redevelopment agency under the provisions of this part.

(14) All unencumbered low- and moderate-income housing funds shall, at the end of three years, be transferred back to the redevelopment agency from which the moneys were generated. At that time, the moneys shall be deemed to be excess surplus pursuant to paragraph (1) of subdivision (g) of Section 33334.12.

(15) At least 60 days prior to the transfer, the donor agency and the receiving community shall submit to the department a draft contract. The department shall review the draft contract, including its terms, conditions, and determinations, shall solicit and consider any public comments, and shall report its written findings to the donor agency and receiving community within 45 days of its receipt.

(16) In the case of a challenge brought to any transfer contract pursuant to this section, the court shall use its independent judgment as to the validity of the contract, and as to the terms, conditions, and determinations of that contract. The court shall consider any written findings by the department.

(17) A receiving community shall, in addition to any other provisions of this article, identify in its housing element sufficient sites to meet its initial low- and moderate-income housing needs and sufficient sites for all units to be constructed, rehabilitated, or assisted with transferred housing funds.

(18) A receiving community shall, at least 45 days prior to the transfer, submit to the department a draft amendment to its housing element to reflect the dwelling units to be constructed, rehabilitated, or assisted with transferred funds.

(19) The donor community and the receiving community shall, at least 45 days prior to the transfer, hold a public hearing, after providing notice pursuant to Section 6062 of the Government Code, to solicit public comments on the draft contract, including its terms, conditions, and determinations.

(20) The receiving community shall certify that it has sufficient authority under Article XXXIV of the California Constitution to allow development of units with transferred funds if Article XXXIV is applicable.

(21) The receiving community shall not use any of the transferred funds to pay for fees or exactions levied solely for development projects constructed, rehabilitated, or assisted with transferred funds.

(22) The receiving community shall not, within three years of the date it first receives transferred funds from the donor agency pursuant to this section, or until units developed with transferred funds are constructed, rehabilitated, or assisted, whichever is longer, enter into a contract to

transfer moneys in its Low and Moderate Income Housing Fund to develop housing outside the territorial jurisdiction of the agency pursuant to this section.

(23) Communities in which the donor agency or donor community have transferred a portion of their Low and Moderate Income Housing Fund to another jurisdiction pursuant to this section shall comply with all other state requirements for purposes of meeting its share of the regional housing need, including the requirements of Section 65589.5 of the Government Code.

(d) Before executing a contract pursuant to this section, both the community of the donor agency and the receiving community shall have adopted complete and adequate general plans, including a housing element that is being implemented and that substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(e) Both the community of the donor agency and the receiving community shall maintain, until the units are constructed, an adopted housing element that substantially complies with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(f) If a council of governments serves the donor agency, the council shall convene a special committee to review the proposed contract. The committee may revise the contract and shall approve or deny the contract. If the committee denies the contract, the contract shall not be implemented. The donor agency and the receiving community shall pay the council's costs associated with the committee. Neither the donor agency, the donor community, nor the receiving community may expend redevelopment low- and moderate-income housing set-aside funds for costs associated with the committee. Membership of the committee shall include all of the following:

(1) One representative appointed by the executive director of the council of governments.

(2) One representative appointed by the donor agency.

(3) One representative appointed by the receiving community.

(4) Two advocates for housing for persons of low and moderate income appointed by the director of the council of governments.

(g) (1) If no council of governments serves the agency, the director of the department shall convene a special committee. The committee may revise the contract and shall approve or deny the contract. If the committee denies the contract, the contract shall not be implemented. The donor agency and the receiving community shall pay the department's costs associated with the committee. Neither the donor agency, the donor community, nor the receiving community may expend

redevelopment low- and moderate-income housing set-aside funds for costs associated with the committee.

(2) Membership of the committee appointed pursuant to this subdivision shall include all of the following:

(A) One representative appointed by the director.

(B) One representative appointed by the donor agency.

(C) One representative appointed by the receiving community.

(D) Two advocates for housing for persons of low and moderate income appointed by the director.

(h) The expenditure of low- and moderate-income housing funds outside of the territorial jurisdiction of an agency, as authorized by this section, shall, upon the adoption of the agreement, be deemed to be a part of the redevelopment plan of the project area, as if the redevelopment plan had been amended to include the agreement and those expenditures. However, in adopting the agreement pursuant to this section, the agency is not required to comply with Article 12 (commencing with Section 33450).

(i) As used in this section:

(1) ''Donor agency'' means a redevelopment agency which proposes to spend moneys from its Low and Moderate Income Housing Fund outside its jurisdiction.

(2) ''Receiving community'' means a city or county which proposes to accept money from a donor agency's Low and Moderate Income Housing Fund.

(j) On or after January 1, 2000, no donor agency shall enter into a contract pursuant to this section unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

SEC. 99. Section 44287 of the Health and Safety Code is amended to read:

44287. (a) The state board shall establish grant criteria and guidelines consistent with this chapter for covered vehicle projects as soon as practicable, but not later than January 1, 2000. The adoption of guidelines is exempt from 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 state board shall solicit input and comment from the districts during the development of the criteria and guidelines and shall make every effort to develop criteria and guidelines that are compatible with existing district programs that are also consistent with this chapter. Guidelines shall include protocols to calculate project cost-effectiveness. The grant criteria and guidelines shall include safeguards to ensure that the project generates surplus emissions reductions. Guidelines shall enable and encourage districts to cofund projects that provide emissions reductions in more than one district. The state board shall make draft criteria and

guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

(b) The state board, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (a) as necessary to improve the ability of the program to achieve its goals. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the state board shall hold at least one public meeting to consider public comments before final adoption of the revision.

(c) The state board shall reserve funds for, and disburse funds to, districts from the fund for administration pursuant to this section and Section 44299.1.

(d) The state board shall develop guidelines for a district to follow in applying for the reservation of funds, in accordance with this chapter. It is the intent of the Legislature that district administration of any reserved funds be in accordance with the project selection criteria specified in Sections 44281, 44282, and 44283 and all other provisions of this chapter. The guidelines shall be established and published by the state board as soon as practicable, but not later than January 1, 2000.

(e) Funds shall be reserved by the state board for administration by a district that adopts an eligible program pursuant to this chapter and offers matching funds at a ratio of one dollar ($1) of matching funds committed by the district or the Mobile Source Air Pollution Reduction Review Committee for every two dollars ($2) committed from the fund. Funds available to the Mobile Source Air Pollution Reduction Review Committee may be counted as matching funds for projects in the South Coast Air Basin only if the committee approves the use of these funds for matching purposes. Matching funds may be any funds under the district's budget authority that are committed to be expended in accordance with the program. Funds committed by a port authority or a local government, in cooperation with a district, to be expended in accordance with the program may also be counted as district matching funds. Matching funds provided by a port authority or a local government may not exceed 30 percent of the total required matching funds in any district that applies for more than three hundred thousand dollars ($300,000) of the state board funds. Only a district, or a port authority or a local government teamed with a district, may provide matching funds.

(f) Notwithstanding subdivision (e), a district need not provide matching funds for state board funds allocated to the district for program outreach activities pursuant to paragraph (4) of subdivision (a) of Section 44299.1.

(g) A district may include within its matching funds a reasonable estimate of direct or in-kind costs for assistance in providing program outreach and application evaluation. In-kind and direct matching funds shall not exceed 15 percent of the total matching funds offered by a district. A district may also include within its matching funds any money spent on or after February 25, 1999, that would have qualified as matching funds but were not previously claimed as matching funds.

(h) A district desiring a reservation of funds shall apply to the state board following the application guidelines established pursuant to this section. The state board shall approve or disapprove a district application not later than 60 days after receipt. Upon approval of any district application, the state board shall simultaneously approve a reservation of funding for that district to administer. Reserved funds shall be disbursed to the district so that funding of a district-approved project is not impeded.

(i) Notwithstanding any other provision of this chapter, districts and the Mobile Source Air Pollution Reduction Review Committee shall not use funds collected pursuant to Section 41081 or Chapter 7 (commencing with Section 44220), or pursuant to Section 9250.11 of the Vehicle Code, as matching funds to fund a project with stationary or portable engines, locomotives, or marine vessels.

(j) Any funds reserved for a district pursuant to this section are available to the district for a period of not more than two years from the time of reservation. Funds not expended by June 30 of the second calendar year following the date of the reservation shall revert back to the state board as of that June 30, and shall be deposited in the Covered Vehicle Account established pursuant to Section 44299. The funds may then be redirected based on applications to the fund. Regardless of any reversion of funds back to the state board, the district may continue to request other reservations of funds for local administration. Each reservation of funds shall be accounted for separately, and unused funds from each application shall revert back to the state board as specified in this subdivision.

(k) The state board shall specify a date each year when district applications are due. If the eligible applications received in any year oversubscribe the available funds, the state board shall reserve funds on an allocation basis, pursuant to subdivision (b) of Section 44299.1. The state board may accept a district application after the due date for a period of months specified by the state board. Funds may be reserved in response to those applications, in accordance with this chapter, out of funds remaining after the original reservation of funds for the year.

(*l*) Guidelines for a district application shall require information from an applicant district to the extent necessary to meet the requirements of

this chapter, but shall otherwise minimize the information required of a district.

(m) A district application shall be reviewed by the state board immediately upon receipt. If the state board determines that an application is incomplete, the applicant shall be notified within 10 working days with an explanation of what is missing from the application. A completed application fulfilling the criteria shall be approved as soon as practicable, but not later than 60 working days after receipt.

(n) The commission, in consultation with the districts, shall establish project approval criteria and guidelines for infrastructure projects consistent with Section 44284 as soon as practicable, but not later than February 15, 2000. The commission shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

(o) The commission, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (n) as necessary to improve the ability of the program to achieve its goals. A revision may be proposed at any time, or may be proposed in response to a finding made in the annual report on the program published by the state board pursuant to Section 44295. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the commission shall hold at least one public meeting to consider public comments before final adoption of the revision.

SEC. 100. Section 51451 of the Health and Safety Code is amended to read:

51451. The Homebuyer Down Payment Assistance Program and the Rental Assistance Program are hereby established to provide assistance in the amount of the applicable school facility fee on affordable housing developments.

(a) A Homebuyer Down Payment Assistance Program shall provide the following assistance:

(1) Downpayment assistance to the purchaser of newly constructed residential structures in a development project in economically distressed areas in the aggregate amount of school facility fees paid pursuant to one or both of Sections 65995.5 and 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section 65995 of the Government Code notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(A) The development project is located in a county with an unemployment rate that equals or exceeds 125 percent of the state unemployment rate.

(B) Five hundred or more residential structures have been constructed in the county during 1997.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(E) The sales price of the eligible residential structure does not exceed 175 percent of the median sales price of residential structures in the county during the average of the previous five years.

(2) Downpayment assistance to the purchaser of any newly constructed residential structure in the development project in the aggregate amount of school facility fees paid pursuant to one, all, or any combination of Sections 65995, 65995.5, and 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section 65995 of the Government Code notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(A) The development project is located in the state.

(B) The sales price of the eligible residential structure in the development project does not exceed one hundred ten thousand dollars ($110,000).

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(3) Downpayment to the purchaser of any newly constructed residential structure in a development project in the aggregate amount of school facility fees paid pursuant to one, all, or any combination of subdivision (b) of Section 65995 and Sections 65995.5 and 65995.7 of the Government Code for the eligible residential structure if all of the following conditions are met:

(A) The assistance is provided to a qualified first-time homebuyer pursuant to Section 50068.5.

(B) The qualified first-time homebuyer meets the very low or low-income requirements set forth in Sections 50105 and 50079.5, respectively.

(C) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 1999.

(D) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(b) A Rental Assistance Program shall provide assistance to the housing sponsor of a housing development in the aggregate amount of the school facility fees paid pursuant to one, all, or any combination of subdivision (b) of Section 65995 and Sections 65995.5 and 65995.7 of the Government Code that meets all of the following conditions:

(1) The units are deed restricted to very low income households and are continuously available to or occupied by very low income households at rents that do not exceed those prescribed by Section 50053, except that for the purposes of this subdivision, very low income shall be defined as 30 percent times 30 percent of the median income adjusted for family size appropriate for the unit.

(2) The number of dedicated residential units must equal or exceed the number of units supported by the reimbursed school impact fees determined by the average per unit development cost.

(3) The dedicated residential units are regulated by an appropriate local or state agency for a minimum of 30 years.

(4) A building permit for an eligible residential unit in the development project is issued by the local agency on or after January 1, 1999.

SEC. 101. Section 104550 of the Health and Safety Code is amended to read:

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 or 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 filler, 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.

SEC. 102. Section 104556 of the Health and Safety Code is amended to read:

104556. The definitions contained in this section shall govern the construction of this article.

(a) ''Adjusted for inflation'' means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(b) ''Affiliate'' means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms ''owns,'' ''is owned,'' and ''ownership'' mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more, and the term ''person'' means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(c) ''Allocable share'' means allocable share as that term is defined in the Master Settlement Agreement.

(d) ''Cigarette'' means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (2) tobacco, in any form, that is functional in the product, which because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a

cigarette described in this section. ''Cigarette'' also includes ''roll-your-own'' tobacco, meaning any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of ''cigarette,'' 0.09 ounces of ''roll-your-own'' tobacco shall constitute one individual ''cigarette.''

(e) ''Master Settlement Agreement'' means the settlement agreement and related documents entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

(f) ''Qualified escrow fund'' means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where the arrangement requires that the financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with subdivision (b) of Section 104557.

(g) ''Released claims'' means released claims as that term is defined in the Master Settlement Agreement.

(h) ''Releasing parties'' means releasing parties as that term is defined in the Master Settlement Agreement.

(i) ''Tobacco product manufacturer'' means an entity that after the date of enactment of this article directly, and not exclusively through any affiliate:

(1) Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where the importer is an original participating manufacturer as that term is defined in the Master Settlement Agreement, that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States); or

(2) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) Becomes a successor of an entity described in paragraph (1) or (2).

The term ''tobacco product manufacturer'' shall not include an affiliate of a tobacco product manufacturer unless the affiliate itself falls within any of paragraphs (1) to (3) of this subdivision.

(j) ''Units sold'' means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs, or ''roll-your-own'' tobacco containers, bearing the excise tax stamp of the state. The State Board of Equalization shall adopt any regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of the tobacco product manufacturer for each year.

SEC. 103. Section 104557 of the Health and Safety Code is amended to read:

104557. (a) Any tobacco product manufacturer selling cigarettes to consumers within the state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, after the date of enactment of this article shall do one of the following:

(1) Become a participating manufacturer as that term is defined in Section II(jj) of the Master Settlement Agreement and generally perform its financial obligations under the Master Settlement Agreement; or

(2) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as such amounts are adjusted for inflation:

(A) For 1999: $0.0094241 per unit sold during that year, after the date of the enactment of this article.

(B) For 2000: $0.0104712 per unit sold during that year.

(C) For each of 2001 and 2002: $0.0136125 per unit sold during the year in question.

(D) For each of 2003 through 2006: $0.0167539 per unit sold during the year in question.

(E) For each of 2007 and each year thereafter: $0.0188482 per unit sold during the year in question.

(b) Any tobacco product manufacturer that places funds into escrow pursuant to paragraph (2) of subdivision (a) shall receive the interest or other appreciation on the funds as earned. The funds, other than the interest or other appreciation, shall be released from escrow only under the following circumstances:

(1) To pay a judgment or settlement on any released claim brought against that tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subdivision (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under that judgment or settlement.

(2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that the

manufacturer would have been required to make in that year under the Master Settlement Agreement, had it been a participating manufacturer, as such payments are determined pursuant to section IX(i)(2) of the Master Settlement Agreement and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(3) To the extent not released from escrow under paragraph (1) or (2) of subdivision (b), funds shall be released from escrow and revert back to the tobacco product manufacturer 25 years after the date on which they were placed into escrow.

(c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to paragraph (2) of subdivision (a) shall annually certify to the Attorney General that it is in compliance with paragraph (2) of subdivision (a), and subdivision (b). The Attorney General may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(1) Be required within 15 days to place the funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of paragraph (2) of subdivision (a), or subdivision (b), may impose a civil penalty to be paid to the General Fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow.

(2) In the case of a knowing violation, be required within 15 days to place the funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of paragraph (2) of subdivision (a), or subdivision (b), may impose a civil penalty to be paid to the General Fund in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow.

(3) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two years.

(d) Each failure to make an annual deposit required under this section shall constitute a separate violation.

SEC. 104. Section 112040 of the Health and Safety Code is amended to read:

112040. (a) Prior to January 1, 2001, the department, its inspectors and agents, and all local health officers and inspectors may at all times

enter any building, room, basement, cellar, or other place occupied or used, or suspected of being occupied or used, for the production, preparation, manufacture, storage, sale, or distribution of food, and inspect the premises and all utensils, implements, receptacles, fixtures, furniture, and machinery used.

(b) Commencing January 1, 2001, only the department, its inspectors and agents, and the local health officers and inspectors of Los Angeles, San Bernardino, and Orange Counties and the City of Vernon may exercise the authority to enter and inspect granted in subdivision (a) except as provided in subdivision (c).

(c) Commencing January 1, 2001, the local health officer or inspector of each city or county, or city and county may exercise the authority to enter and inspect granted in subdivision (a) for the sole purpose of inspecting a food processing establishment that only holds or warehouses processed food, provided that:

(1) The warehouse does not manufacture or pack processed food.

(2) The warehouse does not hold fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(3) The warehouse is not operated as an integral part of a food processing facility required to be registered pursuant to Section 110460.

(4) The warehouse facilities are located entirely within the area under the jurisdiction of the local health department.

(5) The warehouse does not salvage food as the primary business.

(d) All inspections of food processing establishments conducted by local health departments shall be reported to the department within 60 days. The department shall consider this information when scheduling the department's inspection activities.

SEC. 105. Section 115813 of the Health and Safety Code is amended to read:

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 Recreation, 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.

SEC. 106. Section 128375 of the Health and Safety Code is amended to read:

128375. (a) The Legislature hereby finds and declares that an adequate supply of professional nurses is critical to assuring the health and well-being of the citizens of California, particularly those who live in medically underserved areas.

(b) The Legislature further finds that changes in the health care system of this state have increased the need for more highly skilled nurses. These changes include advances in medical technology and pharmacology, that necessitate the use of more highly skilled nurses in acute care facilities. Further, the containment of health care costs has led to increased reliance on home health care and outpatient services and to a higher proportion of more acutely ill patients in acute care facilities. Long-term care facilities also need more highly educated nursing personnel. Both shifts require a larger number of skilled nursing personnel.

(c) The Legislature further finds and declares that in nursing, as in other professions, certain populations are underrepresented. The Legislature also finds and declares that it is especially important that nursing care be provided in a way that is sensitive to the sociocultural variables that affect a person's health. The Legislature recognizes that the financial burden of obtaining a baccalaureate degree is considerable and that persons from families lacking adequate financial resources may need financial assistance to complete a baccalaureate degree.

(d) The Legislature further finds and declares that approximately 54.1 percent of all Californians live in rural and urban areas that have been designated underserved. The shortage of professional nurses in these

areas makes it more difficult for those citizens to obtain health care and more difficult to attract and retain other health care professionals to those areas.

(e) The Legislature further finds and declares that since July 1, 1989, the Registered Nurse Education Fund has collected five million two hundred eight thousand five hundred seventy-four dollars ($5,208,574) to support the education of professional nurses and nursing students in California.

(f) The Legislature further finds and declares that since 1990, the Health Professions Education Foundation has awarded over four million dollars ($4,000,000) in scholarship and loan repayment to 754 nursing students and nurses in California.

(g) The Legislature further finds and declares that 107 award recipients are baccalaureate of science degree prepared nurses who have made a commitment to practice in medically underserved areas of California for a period of two years in exchange for loan repayment.

(h) The Legislature further finds that 485 of the award recipients are baccalaureate of science degree nursing students. Since 1990, 199 nurses have completed their contractual obligation with the Office of Statewide Health Planning and Development.

(i) The Legislature further finds and declares that, since 1994, 112 associate degree nursing scholarship awards have been made to students who have signed a contract with the office to complete a baccalaureate of science degree within five years of completing their associate degree. Six students have completed the articulations pilot program.

(j) The Legislature further finds that recipients of the foundation's financial assistance program have come from very diverse backgrounds. Scholarships have been awarded to African-Americans, American Indians, Asian-Pacific Islanders, Caucasians, Hispanic-Americans, and other individuals.

SEC. 107. Section 384 of the Insurance Code is amended to read:

384. (a) A certificate of insurance or verification of insurance provided as evidence of insurance in lieu of an actual copy of the insurance policy shall contain the following statements or words to the effect of:

This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of the policies.

(b) This section is not applicable to a surplus line broker certificate as defined in Section 48.

SEC. 108. Section 791.02 of the Insurance Code is amended to read:

791.02. As used in this act:

(a) (1) ''Adverse underwriting decision'' means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

(A) A declination of insurance coverage.

(B) A termination of insurance coverage.

(C) Failure of an agent to apply for insurance coverage with a specific insurance institution that the agent represents and that is requested by an applicant.

(D) In the case of a property or casualty insurance coverage:

(i) Placement by an insurance institution or agent of a risk with a residual market mechanism, with an unauthorized insurer, or with an insurance institution that provides insurance to other than preferred or standard risks, if in fact the placement is at other than a preferred or standard rate. An adverse underwriting decision, in case of placement with an insurance institution that provides insurance to other than preferred or standard risks, shall not include placement if the applicant or insured did not specify or apply for placement as a preferred or standard risk or placement with a particular company insuring preferred or standard risks, or

(ii) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished.

(E) In the case of a life, health, or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding paragraph (1), any of the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(A) The termination of an individual policy form on a class or statewide basis.

(B) A declination of insurance coverage solely because coverage is not available on a class or statewide basis.

(C) The rescission of a policy.

(b) ''Affiliate'' or ''affiliated'' means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(c) ''Agent'' means any person licensed pursuant to Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831).

(d) ''Applicant'' means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(e) ''Consumer report'' means any written, oral, or other communication of information bearing on a natural person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

(f) ''Consumer reporting agency'' means any person who:

(1) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee.

(2) Obtains information primarily from sources other than insurance institutions.

(3) Furnishes consumer reports to other persons.

(g) ''Control,'' including the terms ''controlled by'' or ''under common control with,'' 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.

(h) ''Declination of insurance coverage'' means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(i) ''Individual'' means any natural person who is any of the following:

(1) In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder.

(2) In the case of life or disability insurance, is a past, present, or proposed principal insured or certificate holder.

(3) Is a past, present, or proposed policyowner.

(4) Is a past or present applicant.

(5) Is a past or present claimant.

(6) Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this act.

(j) ''Institutional source'' means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance-support organization, other than any of the following:

(1) An agent.

(2) The individual who is the subject of the information.

(3) A natural person acting in a personal capacity rather than in a business or professional capacity.

(k) ''Insurance institution'' means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance. ''Insurance institution'' shall not include agents, insurance-support organizations, or health care service plans regulated pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(*l*) ''Insurance-support organization'' means:

(1) Any person who regularly engages, in whole or in part, in the business of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including either of the following:

(A) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction.

(B) The collection of personal information from insurance institutions, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(2) Notwithstanding paragraph (1), the following persons shall not be considered ''insurance-support organizations'': agents, governmental institutions, insurance institutions, medical care institutions, medical professionals, and peer review committees.

(m) ''Insurance transaction'' means any transaction involving insurance primarily for personal, family, or household needs rather than business or professional needs that entails either of the following:

(1) The determination of an individual's eligibility for an insurance coverage, benefit, or payment.

(2) The servicing of an insurance application, policy, contract, or certificate.

(n) ''Investigative consumer report'' means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning those items of information.

(o) ''Medical care institution'' means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home health agencies, medical clinics, rehabilitation agencies, and public health agencies.

(p) ''Medical professional'' means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, optometrist, physical or occupational therapist, psychiatric social worker, clinical dietitian, clinical psychologist, chiropractor, pharmacist, or speech therapist.

(q) ''Medical record information'' means personal information that is both of the following:

(1) Relates to an individual's physical or mental condition, medical history or medical treatment.

(2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(r) ''Person'' means any natural person, corporation, association, partnership, limited liability company, or other legal entity.

(s) ''Personal information'' means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. ''Personal information'' includes an individual's name and address and ''medical record information'' but does not include ''privileged information.''

(t) ''Policyholder'' means any person who is any of the following:

(1) In the case of individual property or casualty insurance, is a present named insured.

(2) In the case of individual life or disability insurance, is a present policyowner.

(3) In the case of group insurance, which is individually underwritten, is a present group certificate holder.

(u) ''Pretext interview'' means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) Pretends to be someone he or she is not.

(2) Pretends to represent a person he or she is not in fact representing.

(3) Misrepresents the true purpose of the interview.

(4) Refuses to identify himself or herself upon request.

(v) ''Privileged information'' means any individually identifiable information that both:

(1) Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual.

(2) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual. However, information otherwise meeting the requirements of this division shall nevertheless be considered ''personal information'' under this act if it is disclosed in violation of Section 791.13.

(w) ''Residual market mechanism'' means the California FAIR Plan Association, Chapter 10 (commencing with Section 10101) of Part 1 of Division 2, and the assigned risk plan, Chapter 1 (commencing with Section 11550) of Part 3 of Division 2.

(x) ''Termination of insurance coverage'' or ''termination of an insurance policy'' means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(y) ''Unauthorized insurer'' means an insurance institution that has not been granted a certificate of authority by the director to transact the business of insurance in this state.

(z) ''Commissioner'' means the Insurance Commissioner.

SEC. 109. Section 1035 of the Insurance Code is amended to read:

1035. (a) In any proceeding under this article, the commissioner may 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 expenses 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.

SEC. 110. Section 1765.1 of the Insurance Code is amended to read:

1765.1. No surplus line broker shall place any coverage with a nonadmitted insurer unless the insurer is domiciled in the Republic of Mexico and the placement covers only liability arising out of the ownership, maintenance, or use of a motor vehicle, aircraft, or boat in the Republic of Mexico, or, at the time of placement, the nonadmitted insurer meets the following requirements:

(a) (1) Has established its financial stability, reputation, and integrity, for the class of insurance the broker proposes to place, by satisfactory evidence submitted to the commissioner through a surplus line broker.

(2) Meets one of the following requirements with respect to its financial stability:

(A) Has capital and surplus that together total at least fifteen million dollars ($15,000,000). ''Capital'' shall be as defined in Section 36. ''Surplus'' shall be defined as assets exceeding the sum of liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law and paid-in capital in the case of an insurer issuing or having outstanding shares of capital stock. The type of assets to be used in calculating capital and surplus shall be as follows: at least fifteen million dollars ($15,000,000) shall be in the form of cash, or securities of the same character and quality as specified in Sections 1170 to 1182, inclusive, or in readily marketable securities listed on regulated United States' national or principal regional securities exchanges. The remaining assets shall be in the form just described, or in the form of investments of substantially the same character and quality as described in Sections 1190 to 1202, inclusive. In calculating capital and surplus under this section, the term ''same character and quality'' shall permit, but not require, the commissioner to approve assets maintained in accordance with the laws of another state or country. The commissioner shall be guided by any limitations, restrictions, or other requirements of this code or the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in determining whether assets substantially similar to those described in Sections 1190 to 1202, inclusive, qualify. The commissioner shall retain the discretion to disapprove or disallow any asset that is not of a sound quality, or that he or she deems to create an unacceptable risk of loss to the insurer or to policyholders. Securities specifically valued by the National Association of Insurance Commissioners Securities Valuation Office shall be presumed readily marketable absent evidence to the contrary. Letters of credit will not qualify as assets in the calculation of surplus. If less than fifteen million dollars ($15,000,000), the commissioner has affirmatively found that the capital and surplus is adequate to protect California policyholders. The commissioner shall consider, on determining whether to make this finding, factors such as quality of management, the capital and surplus of any parent company, the underwriting profit and investment income trends, and the record of claims payment and claims handling practices of the nonadmitted insurer.

(B) In the case of an ''Insurance Exchange'' created and authorized under the laws of individual states, maintains capital and surplus of not

less than fifty million dollars ($50,000,000) in the aggregate. "Capital" shall be as defined in Section 36. "Surplus" shall be defined as assets exceeding the sum of liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law and paid-in capital in the case of an insurer issuing or having outstanding shares of capital stock. The type of assets to be used in calculating capital and surplus shall be as follows: at least fifteen million dollars ($15,000,000) shall be in the form of cash, or securities of the same character and quality as specified in Sections 1170 to 1182, inclusive, or in readily marketable securities listed on regulated United States' national or principal regional securities exchanges. The remaining assets shall be in the form just described, or in the form of investments of substantially the same character and quality as described in Sections 1190 to 1202, inclusive. In calculating capital and surplus under this section, the term "same character and quality" shall permit, but not require, the commissioner to approve assets maintained in accordance with the laws of another state or country. The commissioner shall be guided by any limitations, restrictions, or other requirements of this code or the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in determining whether assets substantially similar to those described in Sections 1190 to 1202, inclusive, qualify. The commissioner shall retain the discretion to disapprove or disallow any asset that is not of a sound quality, or that he or she deems to create an unacceptable risk of loss to the insurer or to policyholders. Securities specifically valued by the National Association of Insurance Commissioners Securities Valuation Office shall be presumed readily marketable absent evidence to the contrary. Letters of credit shall not qualify as assets in the calculation of surplus. In the case of an Insurance Exchange which maintains funds for the protection of all Insurance Exchange policyholders, each individual syndicate seeking to accept surplus line placements of risks resident, located, or to be performed in this state shall maintain minimum capital and surplus of not less than six million four hundred thousand dollars ($6,400,000). Each individual syndicate shall increase the capital and surplus required by this paragraph by one million dollars ($1,000,000) each year until it attains a capital and surplus of fifteen million dollars ($15,000,000). In the case of Insurance Exchanges that do not maintain funds for the protection of all Insurance Exchange policyholders, each individual syndicate seeking to accept surplus line placement of risks resident, located, or to be performed in this state shall meet the capital and surplus requirements of subparagraph (A) of this paragraph.

(C) In the case of a syndicate that is part of a group consisting of incorporated individual insurers, or a combination of both incorporated and unincorporated insurers, that at all times maintains a trust fund of not

less than one hundred million dollars ($100,000,000) in a qualified United States financial institution as security to the full amount thereof for the United States surplus line policyholders and beneficiaries of direct policies of the group, including all policyholders and beneficiaries of direct policies of the syndicate, and the full balance in the trust fund is available to satisfy the liabilities of each member of the group of those syndicates, incorporated individual insurers or other unincorporated insurers, without regard to their individual contributions to that trust fund, and the trust complies with the terms of and conditions specified in paragraph (1) of subdivision (b), the syndicate is excepted from the capital and surplus requirements of subparagraph (A) of paragraph (2). The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members.

(b) (1) In addition, to be eligible as a surplus line insurer, an insurer not domiciled in one of the United States or its territories shall have in force in the United States an irrevocable trust account in a qualified United States financial institution, for the protection of United States policyholders, of not less than five million four hundred thousand dollars ($5,400,000) and consisting of cash, securities acceptable to the commissioner which are authorized pursuant to Sections 1170 to 1182, inclusive, readily marketable securities acceptable to the commissioner that are listed on a regulated United States national or principal regional security exchange, or clean and irrevocable letters of credit acceptable to the commissioner and issued by a qualified United States financial institution. The trust agreement shall be in a form acceptable to the commissioner. The funds in the trust account may be included in any calculation of capital and surplus, except letters of credit, which shall not be included in any calculation.

(2) In the case of a syndicate seeking eligibility under subparagraph (C) of paragraph (2) of subdivision (a), the syndicate shall, in addition to the requirements of that subparagraph, at a minimum, maintain in the United States a trust account in an amount satisfactory to the commissioner that is not less than the amount required by the domiciliary state of the syndicate's trust. The trust account shall comply with the terms and conditions specified in paragraph (1).

(3) In the case of a group of incorporated insurers under common administration that maintains a trust fund of not less than one hundred million dollars ($100,000,000) in a qualified United States financial institution for the payment of claims of its United States policyholders, their assigns, or successors in interest and that complies with the terms and conditions of paragraph (1) that has continuously transacted an insurance business outside the United States for at least three years, that

is in good standing with its domiciliary regulator, whose individual insurer members maintain standards and a financial condition reasonably comparable to admitted insurers, that submits to this state's authority to examine its books and bears the expense of examination, and that has an aggregate policyholder surplus of ten billion dollars ($10,000,000,000), the group is excepted from the capital and surplus requirements of subdivision (a).

(c) Has caused to be provided to the commissioner the following documents:

(1) The financial documents as specified below, each showing the insurer's condition as of a date not more than 12 months prior to submission:

(A) A copy of an annual statement, prepared in the form prescribed by the NAIC. For an alien insurer, in lieu of an annual statement, a licensee may submit a form as set forth by regulation and as prepared by the insurer, and, if listed by the IID, a copy of the complete information as required in the application for listing by the IID.

(B) A copy of an audited financial report on the insurer's condition that meets the standards of subparagraph (D) for foreign insurers or subparagraph (E) for alien insurers.

(C) If the insurer is an alien:

(i) A certified copy of the trust agreement referenced in subdivision (b).

(ii) A verified copy of the most recent quarterly statement or list of the assets in the trust.

(D) Financial reports filed pursuant to this section by foreign insurers shall conform to the following standards:

(i) Financial documents shall be certified.

(ii) An audited financial report shall constitute a supplement to the insurer's annual statement, as required by the annual statement instructions issued by the NAIC.

(iii) An audited financial report shall be prepared by an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states where licensed to practice; and be prepared in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurance regulator of the insurer's domiciliary jurisdiction.

(iv) An audited financial report shall include information on the insurer's financial position as of the end of the most recent calendar year, and the results of its operations, cash-flows, and changes in capital and surplus for the year then ended.

(v) An audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the insurer's annual statement filed with its domiciliary jurisdiction,

and presenting comparatively the amounts as of December 31 of the most recent calendar year and the amounts as of December 31 of the preceding year.

(E) Financial reports filed pursuant to this section by alien insurers shall conform to the following standards:

(i) Except as provided in clause (ii) of subparagraph (C), financial documents should be certified, if certification of a financial document is not available, the document shall be verified.

(ii) Financial documents should be expressed in United States dollars, but may be expressed in another currency, if the exchange rate for the other currency as of the date of the document is also provided.

(iii) The responses provided pursuant to subparagraph (A) of paragraph (1) on the form submitted in lieu of an annual statement should follow the most recent ISI Guide to Alien Reporting Format, ''Standard Definitions of Accounting Items.'' Responses that do not agree with a standard definition shall be fully explained in the form.

(iv) An audited financial report shall be prepared by an independent licensed auditor in the insurer's domiciliary jurisdiction or in any state.

(v) An audited financial report shall be prepared in accord with either (I) Generally Accepted Auditing Standards that prescribe Generally Accepted Accounting Principles, or (II) International Accounting Standards as published and revised from time to time by the International Auditing Guidelines published by the International Auditing Practice Committee of the International Federation of Accountants; and shall include financial statement notes and a summary of significant accounting practices.

(F) The commissioner may accept, in lieu of a document described above, any certified or verified financial or regulatory document, statement, or report if the commissioner finds that it possesses reliability and financial detail substantially equal to or greater than the document for which it is proposed to be a substitute.

(G) If one of the financial documents required to be submitted under subparagraphs (A) and (B) is dated within 12 months of submission, but the other document is not so dated, the licensee may use the outdated document if it is accompanied by a supplement. The supplement must meet the same requirements which apply to the supplemented document, and must update the outdated document to a date within the prescribed time period, preferably to the same date as the nonsupplemented document.

(2) A certified copy of the insurer's license issued by its domiciliary jurisdiction, plus a certification of good standing, certificate of compliance, or other equivalent certificate, from either that jurisdiction or, if the jurisdiction does not issue those certificates, from any state where it is licensed.

(3) Information on the insurer's agent in California for service of process, including the agent's full name and address. The agent's address must include a street address where the agent can be reached during normal business hours.

(4) The complete street address, mailing address, and telephone number of the insurer's principal place of business.

(5) A certified or verified explanation, report, or other statement, from the insurance regulatory office or official of the insurer's domiciliary jurisdiction, concerning the insurer's record regarding market conduct and consumer complaints; or, if that information cannot be obtained from that jurisdiction, then any other information that the licensee can procure to demonstrate a good reputation for payment of claims and treatment of policyholders.

(6) A verified statement, from the insurer or licensee, on whether the insurer or any affiliated entity is currently known to be the subject of any order or proceeding regarding conservation, liquidation, or other receivership; or regarding revocation or suspension of a license to transact insurance in any jurisdiction; or otherwise seeking to stop the insurer from transacting insurance in any jurisdiction. The statement shall identify the proceeding by date, jurisdiction, and relief or sanction sought; and shall attach a copy of the relevant order.

(7) A certified copy of the most recent report of examination or an explanation if the report is not available.

(8) A list of all California surplus line brokers authorized by the insurer to issue policies on its behalf, and any additions to or deletions from that list.

(d) (1) Has provided any additional information or documentation required by the commissioner that is relevant to the financial stability, reputation, and integrity of the nonadmitted insurer. In making a determination concerning financial stability, reputation, and integrity of the nonadmitted insurer, the commissioner shall consider any analyses, findings, or conclusions made by the National Association of Insurance Commissioners (NAIC) in its review of the insurer for purposes of inclusion on or exclusion from the list of authorized nonadmitted insurers maintained by the NAIC. The commissioner may, but shall not be required to, rely on, adopt, or otherwise accept any analyses, findings, or conclusions of the NAIC, as the commissioner deems appropriate. In the case of a syndicate seeking eligibility under subparagraph (C) of paragraph (2) of subdivision (a), the commissioner may, but shall not be required to, rely on, adopt, or otherwise accept any analyses, findings, or conclusions of any state, as the commissioner deems appropriate, as long as that state, in its method of regulation and review, meets the requirements of paragraph (2).

(2) The regulatory body of the state shall regularly receive and review the following: (A) an audited financial statement of the syndicate, prepared by a certified or chartered public accountant; (B) an opinion of a qualified actuary with regard to the syndicate's aggregate reserves for payment of losses or claims and payment of expenses of adjustment or settlement of losses or claims; (C) a certification from the qualified United States financial institution that acts as the syndicate's trustee, respecting the existence and value of the syndicate's trust fund; and (D) information concerning the syndicate's or its manager's operating history, business plan, ownership and control, experience and ability, together with any other pertinent factors, and any information indicating that the syndicate or its manager make reasonably prompt payment of claims in this state or elsewhere. The regulatory body of the state shall have the authority, either by law or through the operation of a valid and enforceable agreement, to review the syndicate's assets and liabilities and audit the syndicate's trust account, and shall exercise that authority with a frequency and in a manner satisfactory to the commissioner.

(e) Has established that:

(1) All documents required by subdivisions (c) and (d) have been filed. Each of the documents appear after review to be complete, clear, comprehensible, unambiguous, accurate, and consistent.

(2) The documents affirm that the insurer is not subject in any jurisdiction to an order or proceeding that:

(A) Seeks to stop it from transacting insurance.

(B) Relates to conservation, liquidation, or other receivership.

(C) Relates to revocation or suspension of its license.

(3) The documents affirm that the insurer has actively transacted insurance for the three years immediately preceding the filing made under this section, unless an exemption is granted. As used in this paragraph, ''insurer'' does not include a syndicate of underwriting entities. The commissioner may grant an exemption if the licensee has applied for exemption and demonstrates either of the following:

(A) The insurer meets the condition for any exception set forth in subdivision (a), (b), or (c) of Section 716.

(B) If the insurer has been actively transacting insurance for at least 12 months, and the licensee demonstrates that the exemption is warranted because the insurer's current financial strength, operating history, business plan, ownership and control, management experience, and ability, together with any other pertinent factors, make three years of active insurance transaction unnecessary to establish sufficient reputation.

(4) The documents confirm that the insurer holds a license to issue insurance policies (other than reinsurance) to residents of the jurisdiction that granted the license unless an exemption is granted. The

commissioner may grant an exemption if the licensee has applied for an exemption and demonstrates that the exemption is warranted because the insurer proposes to issue in California only commercial coverage, and is wholly owned and actually controlled by substantial and knowledgeable business enterprises that are its policyholders and that effectively govern the insurer's destiny in furtherance of their own business objectives.

(5) The information filed pursuant to paragraph (5) of subdivision (c) or otherwise filed with or available to the commissioner, including reports received from California policyholders, shall indicate that the insurer makes reasonably prompt payment of claims in this state or elsewhere.

(6) The information available to the commissioner shall not indicate that the insurer offers in California a licensee products or rates that violate any provision of this code.

(f) Has been placed on the list of eligible surplus line insurers by the commissioner. The commissioner shall establish a list of all surplus line insurers that have met the requirements of subdivisions (a) to (e), inclusive, and shall publish a master list at least semiannually. Any insurer receiving approval as an eligible surplus line insurer shall be added by addendum to the list at the time of approval, and shall be incorporated into the master list at the next date of publication. If an insurer appears on the most recent list, it shall be presumed that the insurer is an eligible surplus line insurer, unless the commissioner or his or her designee has mailed or causes to be mailed notice to all surplus line brokers that the commissioner has withdrawn the insurer's eligibility. Upon receipt of notice, the surplus line broker shall make no further placements with the insurer. Nothing in this subdivision shall limit the commissioner's discretion to withdraw an insurer's eligibility.

(g) (1) Except as provided by paragraph (2), whenever the commissioner has reasonable cause to believe, and determines after a public hearing, that any insurer on the list established pursuant to subdivision (f), (A) is in an unsound financial condition, (B) does not meet the eligibility requirements under subdivisions (a) to (e), inclusive, (C) has violated the laws of this state, or (D) without justification, or with a frequency so as to indicate a general business practice, delays the payment of just claims, the commissioner may issue an order removing the insurer from the list. Notice of hearing shall be served upon the insurer or its agent for service of process stating the time and place of the hearing and the conduct, condition, or ground upon which the commissioner would make his or her order. The hearing shall occur not less than 20 days, nor more than 30 days after notice is served upon the insurer or its agent for service of process.

(2) If the commissioner determines that an insurer's immediate removal from the list is necessary to protect the public or an insured or prospective insured of the insurer, or, in the case of an application by an insurer to be placed on the list which is being denied by the commissioner, the commissioner may issue an order pursuant to paragraph (1) without prior notice and hearing. At the time an order is served pursuant to this paragraph to an insurer on the list, the commissioner shall also issue and serve upon the insurer a statement of the reasons that immediate removal is necessary. Any order issued pursuant to this paragraph shall include a notice stating the time and place of a hearing on the order, which shall be not less than 20 days, nor more than 30 days after the notice is served.

(3) Notwithstanding paragraphs (1) and (2), in any case where the commissioner is basing a decision to remove an insurer from the list, or deny an application to be placed on the list, on the failure of the insurer or applicant to comply with, meet or maintain any of the objective criteria established by this section, or by regulation adopted pursuant to this section, the commissioner may so specify this fact in the order, and no hearing shall be required to be held on the order.

(4) Notwithstanding paragraphs (1) and (2), the commissioner may, without prior notice or hearing, remove from the list established pursuant to subdivision (f) any insurer that has failed or refused to timely provide documents required by this section, or any regulations adopted to implement this section. In the case of removal pursuant to this paragraph, the commissioner shall notify all surplus line brokers of the action.

(h) In addition to any other statements or reports required by this chapter, the commissioner may also address to any licensee a written request for full and complete information respecting the financial stability, reputation and integrity of any nonadmitted insurer with whom the licensee has dealt or proposes to deal in the transaction of insurance business. The licensee so addressed shall promptly furnish in written or printed form so much of the information requested as he or she can produce together with a signed statement identifying the same and giving reasons for omissions, if any. After due examination of the information and accompanying statement, the commissioner may, if he or she believes it to be in the public interest, order the licensee in writing to place no further insurance business on property located or operations conducted within or on the lives of persons who are residents of this state with the nonadmitted insurer on behalf of any person. Any placement in the nonadmitted insurer made by a licensee after receipt of that order is a violation of this chapter. The commissioner may issue an order when documents submitted pursuant to subdivisions (c) and (d) do not meet the criteria of subdivisions (a) to (e), inclusive, or when the

commissioner obtains documents on an insurer and the insurer does not meet the criteria of subdivisions (a) to (e), inclusive.

(i) The commissioner shall require, at least annually, the submission of records and statements as are reasonably necessary to ensure that the requirements of this section are maintained.

(j) The commissioner shall establish by regulation a schedule of fees to cover costs of administering and enforcing this chapter.

(k) (1) Insurance may be placed on a limited basis with insurers not on the list established pursuant to this section if all of the following conditions are met:

(A) The use of multiple insurers is necessary to obtain coverage for 100 percent of the risk.

(B) At least 80 percent of the risk is placed with admitted insurers or insurers that appear on the list of eligible nonadmitted insurers.

(C) The placing surplus line broker submits to the commissioner, or his or her designee, copies of all documentation relied upon by the surplus line broker to make the broker's determination that the financial stability, reputation, and integrity of the unlisted insurer or insurers, are adequate to safeguard the interest of the insured under the policy. This documentation, and any other documentation regarding the unlisted insurer requested by the commissioner, shall be submitted no more than 30 days after the insurance is placed with the unlisted insurer for the initial placement by that broker with the particular unlisted insurer, and annually thereafter for as long as the broker continues to make placements with the unlisted insurer pursuant to this paragraph.

(D) The insured has aggregate annual premiums for all risks other than workers' compensation or health coverage totaling no less than one hundred thousand dollars ($100,000).

(2) Insurance may not be placed pursuant to paragraph (1) if any of the following applies:

(A) The unlisted insurer has for any reason been objected to by the commissioner pursuant to this section, removed from the list, or denied placement on the list.

(B) The insurance includes coverage for employer-sponsored medical, surgical, hospital, or other health or medical expense benefits payable to the employee by the insurer.

(C) The insurance is mandatory under the laws of the federal government, this state, or any political subdivision thereof, and includes any portion of limits of coverage mandated by those laws.

(D) The insured is a multiple employer welfare arrangement, as defined in Section 1002(40)(A) of Title 29 of the United States Code, or any other arrangement among two or more employers that are not under common ownership or control, which is established or maintained for

the primary purpose of providing insurance benefits to the employees of two or more employers.

(E) Unlisted insurers represent a disproportionate portion of the lower layers of the coverage.

(3) Nothing in this section is intended to alter any duties of a surplus line broker pursuant to subdivision (b) of Section 1765 or other laws of this state to safeguard the interests of the insured under the policy in recommending or placing insurance with a nonadmitted insurer.

(4) Placements authorized by this subdivision are intended to provide sophisticated insurance purchasers with a means to obtain necessary commercial insurance coverage from nonadmitted insurers not listed by the commissioner in situations where it is not commercially possible to fully obtain that coverage from either admitted or listed insurers. This subdivision shall not be deemed to permit surplus line brokers to place with nonadmitted insurers common commercial or personal line coverages for insureds that can be placed with insurers that are admitted or listed pursuant to this section, whether the insured is an individual insured, or a group created primarily for the purpose of purchasing insurance.

(*l*) As used in this section:

(1) ''Certified'' means an originally signed or sealed statement, dated not more than 60 days before submission, made by a public official or other person, attached to a copy of a document, that attests that the copy is a true copy of the original, and that the original is in the custody of the person making the statement.

(2) ''Domiciliary jurisdiction'' means the state, nation, or subdivision thereof under the laws of which an insurer is incorporated or otherwise organized.

(3) ''Domiciliary state of the syndicate's trust'' means the state in which the syndicate's trust fund is principally maintained and administered for the benefit of the syndicate's policyholders in the United States.

(4) ''IID'' means the International Insurers Department.

(5) ''Insurer'' means (unless the context indicates otherwise) ''nonadmitted'' insurers that are either ''foreign'' or ''alien'' insurers, as those terms are defined in Sections 25, 27, and 1580, and syndicates whose members consist of individual incorporated insurers who are not engaged in any business other than underwriting as a member of the group and individual unincorporated insurers, provided all the members are subject to the same level of solvency regulation and control by the group's domiciliary regulator. The term ''insurer'' includes all nonadmitted insurers selling insurance to or through purchasing groups as defined in the Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3901 et seq.) and the California Risk Retention Act of 1990 (Chapter 1.5

(commencing with Section 125) of Part 1 of Division 1), except insurers that are risk retention groups as defined by those acts.

(6) ''ISI'' means Insurance Solvency International.

(7) ''Licensee'' means a surplus line broker as defined in Section 47.

(8) ''NAIC'' means the National Association of Insurance Commissioners or its successor organization.

(9) ''NAIIO'' means the Nonadmitted Alien Insurer Information Office of the NAIC or its successor office.

(10) ''State'' means any state of the United States; the District of Columbia; a commonwealth, or a territory.

(11) ''Verified'' means a document or copy accompanied by an originally signed statement, dated not more than 60 days before submission, from a responsible executive or official who has authority to provide the statement and knowledge whereof he or she speaks, attesting either under oath before a notary public, or under penalty of perjury under California law, that the assertions made in the document are true.

(m) With respect to a nonadmitted insurer that is listed as an authorized surplus line insurer as of December 31, 1994, pursuant to Sections 2174.1 to 2174.14, inclusive, of Title 10 of the California Code of Regulations, this section shall not be effective until the subsequent expiration of the listing of that insurer. Nothing in the bill that amended this section during the 1994 portion of the 1993–94 Regular Session is intended to repeal or imply there is not authority to adopt, or to have adopted, or to continue in force, any regulation, or part thereof, with respect to surplus line insurance which is not clearly inconsistent with it.

SEC. 111. Section 1785.89 of the Insurance Code is amended and renumbered to read:

1758.89. 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.

SEC. 112. Section 1874.81 of the Insurance Code is amended to read:

1874.81. (a) The commissioner shall adopt emergency regulations establishing the criteria that shall be used to award grants to district attorneys under Section 1874.8. In addition to the requirements of subdivision (b) of Section 1874.8, the criteria shall include all of the following:

(1) Suggested ratios of investigators to attorneys that the commissioner believes would result in an effective use of funds provided through a grant, taking into consideration the enforcement plans that the commissioner anticipates will be proposed by grantees.

(2) Administrative expenses that the commissioner deems allowable, both as a percentage of a grant and by category of expense.

(3) Benchmarks suitable for measuring the attainment of the objectives of a grant.

(4) Standard data and reporting formats that the commissioner shall require all grantees to provide when reporting to the commissioner about grants.

(5) Any other criteria deemed by the commissioner to be necessary for the efficient and effective administration of this program, including a commitment for full coordination and cooperation with all organizations funded by this chapter.

(b) The regulations required by subdivision (a) shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of

the Government Code), and the adoption of those regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 113. Section 10123.68 of the Insurance Code is amended 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, not 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. 114. Section 10140 of the Insurance Code is amended and renumbered to read:

10139.1. 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.

SEC. 115. Section 10141 of the Insurance Code is amended and renumbered to read:

10139.2. 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.

SEC. 116. 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) 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 5.55 (commencing with Section 1374.30) of Chapter 2.2 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.

SEC. 117. Section 10169 of the Insurance Code is amended to read:

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.

SEC. 118. Section 10169.2 of the Insurance Code is amended to read:

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 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.

SEC. 119. Section 10176.61 of the Insurance Code is amended 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. 120. Section 11629.92 of the Insurance Code is amended to read:

11629.92. (a) The annual rate offered initially under the pilot program for the low-cost automobile insurance policy, until the time that the rate is adjusted, shall be four hundred ten dollars ($410). A surcharge of 25 percent of the base rate shall be added if the named insured is an unmarried male between the ages of 19 and 24, inclusive, or if an

unmarried male between the ages 19 and 24, inclusive, resides in the household of the named insured and will be a driver of the automobile covered under the low-cost policy.

(b) In addition to existing premium installment options offered by the California Automobile Assigned Risk Plan under Article 4 (commencing with Section 11620), the plan shall also make available to insureds under the pilot program, a premium installment option pursuant to which an insured is required to pay one hundred dollars ($100) upon issuance of the low-cost policy, followed thereafter by six other payments. No other premium financing arrangement shall be permitted.

(c) Rates for policies issued under the pilot program shall be reviewed and revised as follows:

(1) Rates shall be sufficient to cover (A) losses incurred under policies issued under the pilot program, and (B) expenses, including, but not limited to, all reasonable and necessary expenses such as the costs of administration, underwriting, taxes, commissions, and claims adjusting, that are incurred due to participation in this pilot program. For purposes of this paragraph, ''losses incurred'' means claims paid, claims incurred and reported, and claims incurred but not yet reported. In assessing loss reserves, the commissioner shall only allow loss reserves that are estimated from actual losses in the pilot program or comparable data by a licensed statistical agent, as adjusted to reflect coverage provided in this pilot program.

(2) Rates shall be set so as to result in no projected subsidy of the pilot program by those policyholders of insurers issuing policies under the pilot program who are not participants in the pilot program.

(3) Rates shall be set with respect to this pilot program, and the pilot program established in Article 5.5 (commencing with Section 11629.7), so as to result in no projected subsidy by policyholders in one pilot program of policyholders in the other pilot program.

(4) Commencing on January 1, 2001, and annually thereafter, the California Automobile Assigned Risk Plan shall submit the loss and expense data, together with a proposed rate for the low-cost automobile policy for the pilot program, to the commissioner for approval in accordance with this chapter. The commissioner shall act on the recommendation within 90 days.

SEC. 121. Section 12698 of the Insurance Code is amended and renumbered to read:

12968. Every pleading issued by the commissioner to initiate a formal enforcement action against a licensee under this code, and every order issued by the commissioner or a court of competent jurisdiction or other document that resolves a formal enforcement action, shall be displayed on the department's internet web site, if the document is a public record that is not exempt from disclosure to the public pursuant

to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 122. Section 12967 of the Insurance Code is amended to read:

12967. (a) (1) The department shall develop and implement a coordinated approach to gather, review, and analyze the archives of insurers and other archives and records, using onsite teams and the oversight committee, to provide for research and investigation into insurance policies, unpaid insurance claims, and related matters of victims of the Holocaust or of the Nazi-controlled German government or its allies, and the beneficiaries and heirs of those victims, and for losses arising from the activities of the Nazi-controlled German government or its allies for insurance policies issued before and during World War II by insurers who have affiliates or subsidiaries authorized to do business in California. Information compiled shall be placed in a centralized data base for the retention of policy and claimant data, and the data shall be used to implement this section and Section 790.15.

(2) The department has an affirmative duty to play an independent role in representing the interests of Holocaust survivors where necessary, including the duty to carry out research, investigations, and advocacy. The department shall cooperate with, participate in, promote coordination with, and to the extent feasible and consistent with the purposes of this section, work jointly with the National Association of Insurance Commissioners and the international commission on Holocaust survivor claims or any other entity involved in the documentation, resolution, settlement, or distribution of insurance claims, including the documentation of unpaid claims and the distribution of proceeds, and the establishment and maintenance of a data base to contain information relevant to claimants and documents and historical information. The department shall work to recover information and records that will strengthen the claims of California residents.

(3) The department shall employ insurance archaeologists, economists, attorneys, accountants, and other specialists, in this country and in Europe, to implement this section. The department shall work jointly with the National Association of Insurance Commissioners and other organizations for this purpose. The department's cooperation with other states shall be for the purpose of advancing survivors' claims while avoiding duplication of efforts, and shall be dependent upon contributions by other states.

(4) In order to assure that Holocaust survivors receive the most aggressive and independent representation possible in pursuit of their historic claims, in contracting with accounting firms, law firms, economists, or others to implement this section, the department shall, to

the maximum extent possible, avoid any potential or actual conflict of interest by doing the following:

(A) Seek and give preference to firms that are entirely free of any associations with firms representing insurers and nations from which Holocaust survivors are seeking just treatment of their claims.

(B) If the department finds that it is necessary to contract with a firm or firms that have conflicts or potential conflicts of interest, those conflicts or potential conflicts of interest shall be disclosed to the commissioner, and the following requirements shall apply:

(i) The contract shall contain a provision that expresses a formal commitment on the part of the firm to aggressively pursue a maximum just settlement for Holocaust survivors and their families without regard to any adverse impacts on insurers, affiliates of insurers, nations, or others that may have employed the firm or affiliates of the firm that is contracting with the commissioner to assist in carrying out the commissioner's responsibilities under this section.

(ii) If any conflict or potential conflict exists between the firm, or an affiliate of the firm, and an insurer, an affiliate of an insurer, a nation or others directly or indirectly involving Holocaust claims, the firm shall disclose both the fact of the conflict or potential conflict, and all relevant information describing the nature of the conflict or potential conflict.

(iii) If a conflict or potential conflict exists between the firm, or an affiliate of the firm, and an insurer, an affiliate of an insurer, a nation, or others that does not directly or indirectly involve Holocaust claims, the firm shall disclose the fact of the conflict or potential conflict and identify the source of the conflict or potential conflict, but need not describe the particular circumstances or facts that create the conflict or potential conflict.

(C) The department may take whatever special measures it deems necessary to avoid either the appearance or the reality of conflicts that may undermine public confidence in the integrity of the effort to secure justice for Holocaust survivors.

(b) The funding of the activities provided for by this section for the 1998–99 fiscal year shall be from funds transferred pursuant to subdivision (b) of Section 1523 of the Code of Civil Procedure, which funds are hereby appropriated to the commissioner for that purpose. The commissioner shall seek reimbursement of those funds as provided in subdivision (c).

Funding for subsequent fiscal years shall be subject to the Budget Act and based on a plan submitted by the commissioner to the Legislature outlining the plan for reimbursement of expenses of the department by affected insurers.

Funds made available to implement this section shall be used to develop and implement a coordinated approach to gather, review, and

analyze the archives of affected insurance groups, and other archives and records, using onsite teams and the oversight committee. These funds shall also be used to fund the necessary expenses of the Holocaust Era Insurance Claims Oversight Committee established in subdivision (d). The information compiled shall be placed in a centralized data base for the retention of policy and claimant data, and that data shall be used by the department to implement this section.

(c) (1) Any funds recovered by the department for the purpose of reimbursing the state for costs associated with investigation and enforcement actions under this section shall not be deposited in the Insurance Fund, but instead shall be delivered to the Controller for deposit into the General Fund.

(2) To the maximum extent possible, the department shall seek reimbursement for its costs incurred in implementing this section, including funds transferred pursuant to subdivision (b) of Section 1523 of the Code of Civil Procedure, from any settlements reached with affected insurers.

(d) (1) There is established a seven-member Holocaust Era Insurance Claims Oversight Committee, that shall be known as the oversight committee, and whose members shall be appointed as follows:

(A) Four members shall be appointed by the Governor.

(B) One member shall be appointed by the President pro Tempore of the Senate.

(C) One member shall be appointed by the Speaker of the Assembly.

(D) One member shall be appointed by the Commissioner of Insurance.

(2) The Governor shall designate one of his or her appointees as the chairperson of the committee.

(3) Each member of the committee shall serve at the pleasure of the authority that appointed him or her to serve on the committee.

(4) The oversight committee shall be composed of qualified individuals with experience in Holocaust claims cases, similar investigations, archival research, and international law. The oversight committee shall also include Holocaust survivors. No member of the oversight committee shall have a potential or actual conflict of interest, or shall be employed by a person who has a potential or actual conflict of interest.

(5) The appointments shall be expedited because of the urgency due to survivors' needs.

(6) The oversight committee shall have the following authority and shall do all of the following:

(A) Review and make recommendations concerning any insurance settlement negotiation or offer relating to a Holocaust era insurance claim in which the department is involved.

(B) Review and make recommendations to the commissioner on the priorities for expenditure of funds and use of resources by the department for Holocaust era insurance claims related activities.

(C) Recommend whether a proposed settlement of a Holocaust era insurance claim submitted to the committee pursuant to paragraph (7) is equitable before the department finalizes the settlement agreement.

(7) The commissioner, in the event of a proposed settlement of any policy or group of policies relating to Holocaust era insurance claims, shall confer with the committee prior to the department finalizing the settlement agreement. The department may not finalize a proposed settlement of a Holocaust era insurance claim unless the committee, pursuant to subparagraph (C) of paragraph (6), recommends that the proposed settlement is equitable.

(e) The department shall report its progress in implementing this section and its participation in the identification and resolution of insurance claims of Holocaust survivors and their beneficiaries and heirs. The report shall also include an overview of current and anticipated expenditures in implementing this section. The department shall make this report biannually to the insurance and budget committees of the Legislature.

SEC. 123. Section 1174.5 of the Labor Code is amended to read:

1174.5. Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars ($500).

SEC. 124. Section 1777.5 of the Labor Code is amended to read:

1777.5. (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either (1) the apprenticeship standards and apprentice agreements under which he or she is training or (2) the rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval or denial of the apprenticeship program shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. ''Apprenticeable craft or trade,'' as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, ''contractor'' includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public

at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(*l*) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract. At the end of each fiscal year the California Apprenticeship Council shall make grants to each apprenticeship program in proportion to the number of hours of training provided by the program for which the program did not receive contributions, weighted by the regular rate of contribution for the program. These grants shall be made from funds collected by the California Apprenticeship Council during the fiscal year pursuant to this subdivision from contractors that employed registered apprentices but did not contribute to an approved apprenticeship program. All these funds received during the fiscal year shall be distributed as grants.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars ($30,000) or 20 working days.

(p) All decisions of an apprenticeship program under this section are subject to Section 3081.

SEC. 125. Section 1777.7 of the Labor Code is amended to read:

1777.7. (a) A contractor or subcontractor that knowingly violates Section 1777.5 shall forfeit as a civil penalty an amount not exceeding one hundred dollars ($100) for each full calendar day of noncompliance. The amount of this penalty shall be based on consideration whether the violation was a good faith mistake due to inadvertence. A contractor or

subcontractor that knowingly commits a second or subsequent violation of Section 1777.5 within a three-year period, where the noncompliance results in apprenticeship training not being provided as required by this chapter, shall forfeit as a civil penalty the sum of not more than three hundred dollars ($300) for each full calendar day of noncompliance. Notwithstanding Section 1727, upon receipt of a determination that a civil penalty has been imposed, the awarding body shall withhold the amount of the civil penalty from contract progress payments then due or to become due.

(b) (1) In the event a contractor or subcontractor is determined by the Administrator of Apprenticeship to have knowingly violated any provision of Section 1777.5, the Administrator shall deny to the contractor or subcontractor, both individually and in the name of the business entity under which the contractor or subcontractor is doing business, the right to bid on or receive any public works contract for a period of up to one year for the first violation and for a period of up to three years for a second or subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Administrator of Apprenticeship.

(2) An affected contractor or subcontractor may obtain a review of the debarment or civil penalty by transmitting a written request to the office of the Administrator within 30 days after service of the order of debarment or civil penalty. If the Administrator receives no request for review within 30 days after service, the order of debarment or civil penalty shall become final for the period authorized.

(3) Within 20 days of the timely receipt of a request for hearing, the Administrator shall provide the contractor or subcontractor the opportunity to review any evidence the Administrator may offer at the hearing. The Administrator shall also promptly disclose to the contractor or subcontractor any nonprivileged documents obtained after the 20-day time limit.

(4) Within 90 days of the timely receipt of the request for hearing, a hearing shall be commenced before an impartial hearing officer designated by the Administrator and possessing the qualifications of an administrative law judge pursuant to Section 11502 of the Government Code. The contractor or subcontractor shall have the burden of showing compliance with Section 1777.5. The decision to debar shall be reviewed by a hearing officer or court only for abuse of discretion.

(5) Within 45 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or dismissing the debarment or civil penalty. The decision shall contain a notice of findings, findings, and an order. This decision shall be deemed the final decision of the Administrator and shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure

by first-class mail at the last known address of the party on file with the Administrator. Within 15 days of issuance of the decision, the hearing officer may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

(6) An affected contractor or subcontractor may obtain review of the final decision of the Administrator by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the final decision to debar or to assess a civil penalty. If no petition for a writ of mandate is filed within 45 days after service of the final decision, the order shall become final. If the petitioner claims that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the entire record.

(7) The Administrator may file a certified copy of a final order with the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business.

(c) If a subcontractor is found to have violated Section 1777.5, the prime contractor of the project is not liable for any penalties under subdivision (a), unless the prime contractor had knowledge of the subcontractor's failure to comply with the provisions of Section 1777.5 or unless the prime contractor fails to comply with any of the following requirements:

(1) The contract executed between the contractor and the subcontractor or the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall continually monitor a subcontractor's use of apprentices required to be employed on the public works project pursuant to subdivision (d) of Section 1777.5, including, but not limited to, periodic review of the certified payroll of the subcontractor.

(3) Upon becoming aware of a failure of the subcontractor to employ the required number of apprentices, the contractor shall take corrective action, including, but not limited to, retaining funds due the subcontractor for work performed on the public works project until the failure is corrected.

(4) Prior to making the final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has employed the required number of apprentices on the public works project.

(d) In lieu of the penalty provided for in subdivision (a) or (b), the director may for a first-time violation and with the concurrence of the apprenticeship program, order the contractor or subcontractor to provide

apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.

(e) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if the awarding body is an entity other than the state.

(f) The interpretation and enforcement of Section 1777.5 and this section shall be in accordance with the rules and procedures of the California Apprenticeship Council.

SEC. 126. 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 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. 127. Section 6394.5 of the Labor Code is amended to read:

6394.5. (a) The department shall adopt an electronic format for the electronic filing of an MSDS with the department and shall implement a system, by January 1, 2002, enabling electronic MSDS filings for purposes of complying with this section using the form. The department shall evaluate the use and effectiveness of the electronic format on relevant parties, including, but not limited to, the preparer of an MSDS, affected employers, and affected employees. The system shall employ electronic MSDS format, transmission, protocol, and authentication techniques that are, in the estimation of the department, compatible with

those techniques developed and demonstrated by the Secretary for Environmental Protection pursuant to Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code.

(b) This section may not be implemented, and no information technology-related preparatory work may be undertaken in connection with this act, before July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 128. Section 6429 of the Labor Code is amended to read:

6429. (a) 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 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. 129. 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, 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. 130. Section 6650 of the Labor Code is amended to read:

6650. (a) After the expiration of the period during which a penalty may be appealed, no appeal having been filed, the department may file with the clerk of the superior court in any county a certified copy of the citation and notice of civil penalty, the certification by the department that the penalty remains unpaid, and the division's proof of service on the employer of the items filed with the clerk of the court.

(b) After the exhaustion of the review procedures provided for in Chapter 7 (commencing with Section 6600), an appeal having been filed, the department may file with the clerk of the superior court in any county a certified copy of the citation and notice of civil penalty, a certified copy of the order, findings or decision of the appeals board, the certification of the department that the penalty remains unpaid, and proof of service on the employer at the employer's address as shown on the official address record by the appeals board.

(c) The clerk, immediately upon the filing of a notice of civil penalty by the department pursuant to subdivision (a) or (b), shall enter judgment for the state against the person assessed the civil penalty in the amount of the penalty, plus interest due for each day from the date of issuance of the notice of civil penalty that the penalty remains unpaid.

(d) The department shall serve the notice of entry of judgment provided by Section 664.5 of the Code of Civil Procedure on the employer.

(e) A judgment entered pursuant to this section shall bear the same rate of interest, have the same effect as other judgments, and be given the same preference allowed by law on other judgments rendered for claims for taxes pursuant to Section 7170 of the Government Code.

(f) No fees shall be charged by the clerk of any court for the performance of any official service required by this chapter.

SEC. 131. Section 273.84 of the Penal Code is amended to read:

273.84. Each district attorney's or city attorney's office establishing a spousal abuser prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for spousal abuser cases:

(a) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant meeting spousal abuser selection criteria.

(b) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution as a spousal abuser. In the prosecution of an

intrafamily sexual abuse case, discretion may be exercised as to the type and nature of sentence recommended to the court.

(c) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charge against an individual meeting spousal abuser criteria.

SEC. 132. Section 296.1 of the Penal Code is amended to read:

296.1. (a) Any person, including any juvenile, who comes within the provisions of this chapter for an offense set forth in subdivision (a) of Section 296, and who is granted probation, or serves his or her entire term of confinement in a county jail, or is not sentenced to a term of confinement in a state prison facility, or otherwise bypasses a prison inmate reception center maintained by the Department of Corrections, shall, as soon as administratively practicable, but in any case, prior to physical release from custody, be required to provide two specimens of blood, a saliva sample, and thumb and palm print impressions as set forth in subdivision (a) of Section 296, at a county jail facility or other state, local, or private facility designated for the collection of these specimens, samples, and print impressions, in accordance with subdivision (f) of Section 295.

If the person subject to this chapter is not incarcerated at the time of sentencing, the court shall order the person to report within five calendar days to a county jail facility or other state, local, or private facility designated for the collection of specimens, samples, and print impressions to provide these specimens, samples, and print impressions in accordance with subdivision (f) of Section 295.

(b) If a person who comes within the provisions of this chapter for an offense set forth in subdivision (a) of Section 296 is sentenced to serve a term of imprisonment in a state correctional institution, the Director of Corrections shall collect the blood specimens, saliva samples, and thumb and palm print impressions required by this chapter from the person during the intake process at the reception center designated by the director, or as soon as administratively practicable thereafter at a receiving penal institution.

(c) Any person, including, but not limited to, any juvenile and any person convicted and sentenced to death, life without the possibility of parole, or any life or indeterminate term, who is imprisoned or confined in a state correctional institution, a county jail, a facility within the jurisdiction of the Department of the Youth Authority, or any other state, local, or private facility after a conviction of any crime, or disposition rendered in the case of a juvenile, whether or not that crime or offense is one set forth in subdivision (a) of Section 296, shall provide two specimens of blood, a saliva sample, and thumb and palm print impressions pursuant to this chapter, as soon as administratively practicable once it has been determined that both of the following apply:

(1) The person has been convicted in California of a qualifying offense described in subdivision (a) of Section 296 or of a similar crime under the laws of the United States or any other state that would constitute an offense described in subdivision (a) of Section 296.

(2) The person's blood specimens, saliva samples, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory as part of the DNA data bank program.

This subdivision applies regardless of when the person was convicted of the qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state, or when disposition was rendered in the case of a juvenile who is adjudged a ward of the court for commission of a qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state.

(d) Any person, including any juvenile, who comes within the provisions of this chapter for an offense set forth in subdivision (a) of Section 296, and who is on probation or parole, shall be required to provide two specimens of blood, a saliva sample, and thumb and palm print impressions as required pursuant to this chapter, if it is determined that the person has not previously provided these specimens, samples, and print impressions to law enforcement, or if it is determined that these specimens, samples, and print impressions are not in the possession of the Department of Justice. The person shall have the specimens, samples, and print impressions collected within five calendar days of being notified by a law enforcement agency or other agency authorized by the Department of Justice. The specimens, samples, and print impressions shall be collected in accordance with subdivision (f) of Section 295 at a county jail facility or other state, local, or private facility designated for this collection.

This subdivision shall apply regardless of when the crime committed became a qualifying offense pursuant to this chapter.

(e) When an offender from another state is accepted into this state under any of the interstate compacts described in Article 3 (commencing with Section 11175) or Article 4 (commencing with Section 11189) of Chapter 2 of Title 1 of Part 4 of this code, or Chapter 4 (commencing with Section 1300) of Part 1 of Division 2 of the Welfare and Institutions Code, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the offender is confined or released, the acceptance is conditional on the offender providing blood specimens, saliva samples, and palm and thumb print impressions pursuant to this chapter, if the offender was convicted of an offense that would qualify as a crime described in subdivision (a) of

Section 296, or if the person was convicted of a similar crime under the laws of the United States or any other state.

If the person is not confined, the specimens, samples, and print impressions required by this chapter must be provided within five calendar days after the offender reports to the supervising agent or within five calendar days of notice to the offender, whichever occurs first. The person shall report to a county jail facility in the county where he or she resides or temporarily is located to have the specimens, samples, and print impressions collected pursuant to this chapter. The specimens, samples, and print impressions shall be collected in accordance with subdivision (f) of Section 295.

If the person is confined, he or she shall provide the blood specimens, saliva samples, and thumb and palm print impressions required by this chapter as soon as practicable after his or her receipt in a state, county, local, private, or other facility.

(f) Subject to the approval of the Director of the Federal Bureau of Investigation, persons confined or incarcerated in a federal prison or federal institution located in California who are convicted of a qualifying offense described in subdivision (a) of Section 296 or of a similar crime under the laws of the United States or any other state that would constitute an offense described in subdivision (a) of Section 296, are subject to this chapter and shall provide blood specimens, saliva samples, and thumb and palm print impressions pursuant to this chapter if any of the following apply:

(1) The person committed a qualifying offense in California.

(2) The person was a resident of California at the time of the qualifying offense.

(3) The person has any record of a California conviction for a sex or violent offense described in subdivision (a) of Section 296, regardless of when the crime was committed.

(4) The person will be released in California.

Once a federal data bank is established and accessible to the Department of Justice, the Department of Justice DNA Laboratory shall, upon the request of the United States Department of Justice, forward the samples taken pursuant to this chapter to the United States Department of Justice DNA data bank laboratory. The samples and impressions required by this chapter shall be taken in accordance with the procedures set forth in subdivision (f) of Section 295.

(g) If a person who is released on parole, furlough, or other release, is returned to a state correctional institution for a violation of a condition of his or her parole, furlough, or other release, and is serving or at any time has served a term of imprisonment for committing an offense described in subdivision (a) of Section 296, and he or she did not provide specimens, samples, and print impressions pursuant to the state's DNA

data bank program, the person shall submit to collection of blood specimens, saliva samples, and thumb and palm print impressions at a state correctional institution.

This subdivision applies regardless of the crime or Penal Code violation for which a person is returned to a state correctional institution and regardless of the date the qualifying offense was committed.

SEC. 133. Section 487c of the Penal Code is amended to read:

487c. Every person who converts real estate of the value of less than one hundred dollars ($100) into personal property by severance from the realty of another, and with felonious intent to do so steals, takes, and carries away such property is guilty of petty theft and is punishable by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 134. Section 666 of the Penal Code is amended to read:

666. Every person who, having been convicted of petty theft, grand theft, auto theft under Section 10851 of the Vehicle Code, burglary, carjacking, robbery, or a felony violation of Section 496 and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for that offense, is subsequently convicted of petty theft, then the person convicted of that subsequent offense is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.

SEC. 135. Section 830.32 of the Penal Code is amended to read:

830.32. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency.

(a) Members of a California Community College police department appointed pursuant to Section 72330 of the Education Code, if the primary duty of the police officer is the enforcement of the law as prescribed in Section 72330 of the Education Code.

(b) Persons employed as members of a police department of a school district pursuant to Section 38000 of the Education Code, if the primary duty of the police officer is the enforcement of the law as prescribed in Section 38000 of the Education Code.

(c) Any peace officer employed by a K-12 public school district or California Community College district who has completed training as prescribed by subdivision (f) of Section 832.3 shall be designated a school police officer.

SEC. 136. Section 1463 of the Penal Code is amended to read:

1463. All fines and forfeitures imposed and collected for crimes shall be distributed in accordance with Section 1463.001.

The following definitions shall apply to terms used in this chapter:

(a) ''Arrest'' means any law enforcement action, including issuance of a notice to appear or notice of violation, which results in a criminal charge.

(b) ''City'' includes any city, city and county, district, including any enterprise special district, community service district, or community service area engaged in police 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 Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

(c) ''City arrest'' means an arrest by an employee of a city, or by a California Highway Patrol officer within the limits of a city.

(d) ''County'' means the county in which the arrest took place.

(e) ''County arrest'' means an arrest by a California Highway Patrol officer outside the limits of a city, or any arrest by a county officer or by any other state officer.

(f) ''Court'' means the superior or municipal court or a juvenile forum established under Section 257 of the Welfare and Institutions Code, in which the case arising from the arrest is filed.

(g) ''Division of moneys'' means an allocation of base fine proceeds between agencies as required by statute including, but not limited to, Sections 1463.003, 1463.9, 1463.23, 1463.26, and Sections 13001, 13002, and 13003 of the Fish and Game Code, and Section 11502 of the Health and Safety Code.

(h) ''Offense'' means any infraction, misdemeanor, or felony, and any act by a juvenile leading to an order to pay a financial sanction by reason of the act being defined as an infraction, misdemeanor, or felony, whether defined in this or any other code, except any parking offense as defined in subdivision (i).

(i) ''Parking offense'' means any offense charged pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, including registration and equipment offenses included on a notice of parking violation.

(j) ''Penalty allocation'' means the deposit of a specified part of moneys to offset designated processing costs, as provided by Section 1463.16 and by Section 68090.8 of the Government Code.

(k) ''Total parking penalty'' means the total sum to be collected for a parking offense, whether as fine, forfeiture of bail, or payment of

penalty to the Department of Motor Vehicles. It may include the following components:

(1) The base parking penalty as established pursuant to Section 40203.5 of the Vehicle Code.

(2) The Department of Motor Vehicles (DMV) fees added upon the placement of a hold pursuant to Section 40220 of the Vehicle Code.

(3) The surcharges required by Section 76000 of the Government Code.

(4) The notice penalty added to the base parking penalty when a notice of delinquent parking violations is given.

(*l*) ''Total fine or forfeiture'' means the total sum to be collected upon a conviction, or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It may include, but is not limited to, the following components as specified for the particular offense:

(1) The ''base fine'' upon which the state penalty and additional county penalty is calculated.

(2) The ''county penalty'' required by Section 76000 of the Government Code.

(3) The ''service charge'' permitted by Section 853.7 of the Penal Code and Section 40508.5 of the Vehicle Code.

(4) The ''special penalty'' dedicated for blood alcohol analysis, alcohol program services, traumatic brain injury research, and similar purposes.

(5) The ''state penalty'' required by Section 1464.

SEC. 137. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

The term ''severe mental disorder'' means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term ''severe mental disorder'' as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

The term ''remission'' means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person ''cannot be kept in remission without treatment'' if during the year prior to the

question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) Only if both independent professionals who evaluate the prisoner pursuant to paragraph (2) concur with the chief psychiatrist's certification of the issues described in paragraph (2), shall this subdivision be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) Any robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(E) Carjacking, as defined in subdivision (a) of Section 215, if it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the carjacking.

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(G) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(H) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(I) Lewd acts on a child under the age of 14 years in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 where the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 where the act posed a substantial danger of physical harm to others.

(M) Any felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section 12308.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in such a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph, substantial physical harm shall not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) As used in this chapter, ''substantial danger of physical harm'' does not require proof of a recent overt act.

SEC. 138. Section 6129 of the Penal Code is amended to read:

6129. (a) (1) For purposes of this section, ''employee'' means any person employed by the Youth and Adult Correctional Agency, the Department of Corrections, the Department of the Youth Authority, the Board of Corrections, the Board of Prison Terms, the Youthful Offender Parole Board, or the Inspector General.

(2) For purposes of this section, ''retaliation'' means intentionally engaging in acts of reprisal, retaliation, threats, coercion, or similar acts against another employee who has done either of the following:

(A) Has disclosed or is disclosing to any employee at a supervisory or managerial level, what the employee, in good faith, believes to be improper governmental activities.

(B) Has cooperated or is cooperating with any investigation of improper governmental activities.

(b) (1) Upon receiving a complaint of retaliation from an employee, the Inspector General shall commence an investigation within 30 days of receiving the complaint. All investigations conducted pursuant to this section shall be performed, where applicable, in accordance with the requirements of Chapter 9.7 (commencing with Section 3300) of Title 1 of Division 4 of the Government Code.

(2) When investigating a complaint, in determining whether retaliation has occurred, the Inspector General shall consider, among other things, whether any of the following either actually occurred or were threatened:

(A) Unwarranted or unjustified staff changes.

(B) Unwarranted or unjustified letters of reprimand or other disciplinary actions, or unsatisfactory evaluations.

(C) Unwarranted or unjustified formal or informal investigations.

(D) Engaging in acts, or encouraging or permitting other employees to engage in acts, that are unprofessional, or foster a hostile work environment.

(E) Engaging in acts, or encouraging or permitting other employees to engage in acts, that are contrary to the rules, regulations, or policies of the workplace.

(3) Upon authorization of the complainant employee, the Inspector General may release the findings of the investigation of alleged retaliation to the State Personnel Board for appropriate action.

(c) Any employee at any rank and file, supervisory, or managerial level, who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against another employee, pursuant to paragraph (2) of subdivision (a), shall be disciplined by adverse action as provided in Section 19572 of the Government Code. If no adverse action is taken, the State Personnel Board shall invoke adverse action proceedings as provided in Section 19583.5 of the Government Code.

(d) (1) In addition to all other penalties provided by law, including Section 8547.8 of the Government Code or any other penalties that the sanctioning authority may determine to be appropriate, any state employee at any rank and file, supervisory, or managerial level found by the State Personnel Board to have intentionally engaged in acts of reprisal, retaliation, threats, or coercion shall be suspended for not less than 30 days without pay, and shall be liable in an action for damages brought against him or her by the injured party. If the State Personnel Board determines that a lesser period of suspension is warranted, the reasons for that determination must be justified in writing in the decision.

(2) Punitive damages may be awarded by the court if the acts of the offending party are proven to be malicious. If liability has been established, the injured party also shall be entitled to reasonable attorney's fees as provided by law.

(e) Nothing in this section shall prohibit the employing entity from exercising its authority to terminate, suspend, or discipline an employee who engages in conduct prohibited by this section.

(f) The Inspector General, the Youth and Adult Correctional Agency, the Department of the Youth Authority, the Department of Corrections, the Board of Corrections, the Youthful Offender Parole Board, and the Board of Prison Terms shall refer matters involving criminal conduct to the proper law enforcement authorities in the appropriate jurisdiction for further action. The entity making a referral to the local district attorney shall also notify the Attorney General of the action. If the local district attorney refuses to accept the case, he or she shall notify the referring entity who shall subsequently refer the matter to the Attorney General. If the local district attorney has not acted on the matter, the referring entity shall notify the Attorney General. It is the intent of the Legislature that the Department of Justice avoid any conflict of interest in representing the State of California in any civil litigation that may arise

in a case in which an investigation has been or is currently being conducted by the Bureau of Investigation by contracting when necessary for private counsel.

SEC. 139. Section 11166.3 of the Penal Code is amended to read:

11166.3. (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Section 859. The child protective agency shall send a copy of its investigative report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

SEC. 140. Section 11170.6 of the Penal Code is amended to read:

11170.6. (a) Notwithstanding paragraph (3) of subdivision (b) of Section 11170, the Department of Justice shall make available to the City of San Diego for purposes of evaluating employees for the ''6 to 6'' program information regarding a known or suspected child abuser maintained in the child abuse index pursuant to subdivision (a) of Section 11170 concerning any person who has submitted an application for employment in the ''6 to 6'' program.

(b) The City of San Diego, to whom disclosure of any information pursuant to subdivision (a) is authorized, is responsible for obtaining the original investigative report from the reporting agency and for drawing independent conclusions regarding the quality of the evidence disclosed and the sufficiency of the evidence for making decisions when evaluating employees for the ''6 to 6'' program.

(c) The disclosure pursuant to this section of the presence of an applicant's name on the index is provided solely for purposes of investigating the individual's background by identifying the original investigative report from the reporting agency. The presence of an individual's name on the index may not itself be used as evidence adverse to an applicant for employment in the ''6 to 6'' program. An investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. Employment may not be denied based on a report from the Child Abuse Central Index, unless the child abuse is substantiated.

(d) (1) Whenever information contained in the Department of Justice files is furnished as the result of a request for information pursuant to subdivision (a), the Department of Justice may charge the requestor a fee. The fee may not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. The fee may not exceed fifteen dollars ($15).

(2) All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditures by the department to offset costs incurred for processing child abuse central index requests.

SEC. 141. Section 12000 of the Penal Code is amended to read:

12000. This chapter shall be known and may be cited as ''The Dangerous Weapons Control Law.''

SEC. 142. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a municipal court, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with

Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a municipal court, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

These rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1

(commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, ''primary responsibility'' refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.

SEC. 143. Section 2357 of the Probate Code is amended to read:

2357. (a) As used in this section:

(1) ''Guardian or conservator'' includes a temporary guardian of the person or a temporary conservator of the person.

(2) ''Ward or conservatee'' includes a person for whom a temporary guardian of the person or temporary conservator of the person has been appointed.

(b) If the ward or conservatee requires medical treatment for an existing or continuing medical condition which is not authorized to be performed upon the ward or conservatee under Section 2252, 2353, 2354, or 2355, and the ward or conservatee is unable to give an informed consent to such medical treatment, the guardian or conservator may petition the court under this section for an order authorizing such medical treatment and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to such medical treatment.

(c) The petition shall state, or set forth by medical affidavit attached thereto, all of the following so far as is known to the petitioner at the time the petition is filed:

(1) The nature of the medical condition of the ward or conservatee which requires treatment.

(2) The recommended course of medical treatment which is considered to be medically appropriate.

(3) The threat to the health of the ward or conservatee if authorization to consent to the recommended course of treatment is delayed or denied by the court.

(4) The predictable or probable outcome of the recommended course of treatment.

(5) The medically available alternatives, if any, to the course of treatment recommended.

(6) The efforts made to obtain an informed consent from the ward or conservatee.

(7) The name and addresses, so far as they are known to the petitioner, of the persons specified in subdivision (c) of Section 1510 in a

guardianship proceeding or subdivision (b) of Section 1821 in a conservatorship proceeding.

(d) Upon the filing of the petition, unless an attorney is already appointed the court shall appoint the public defender or private counsel under Section 1471, to consult with and represent the ward or conservatee at the hearing on the petition and, if that appointment is made, Section 1472 applies.

(e) Notice of the Petition shall be given as follows:

(1) 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 ward, if 12 years of age or older, or the conservatee, and on the attorney for the ward or conservatee.

(2) 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:

(A) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(B) The relatives named in the petition at their addresses stated in the petition.

(f) For good cause, the court may shorten or waive notice of the hearing as provided by this section. In determining the period of notice to be required, the court shall take into account both of the following:

(1) The existing medical facts and circumstances set forth in the petition or in a medical affidavit attached to the petition or in a medical affidavit presented to the court.

(2) The desirability, where the condition of the ward or conservatee permits, of giving adequate notice to all interested persons.

(g) Notwithstanding subdivisions (e) and (f), the matter may be submitted for the determination of the court upon proper and sufficient medical affidavits or declarations if the attorney for the petitioner and the attorney for the ward or conservatee so stipulate and further stipulate that there remains no issue of fact to be determined.

(h) The court may make an order authorizing the recommended course of medical treatment of the ward or conservatee and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to the recommended course of medical treatment for the ward or conservatee if the court determines from the evidence all of the following:

(1) The existing or continuing medical condition of the ward or conservatee requires the recommended course of medical treatment.

(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 ward or conservatee.

(3) The ward or conservatee is unable to give an informed consent to the recommended course of treatment.

(i) Upon petition of the ward or conservatee or other interested person, the court may order that the guardian or conservator obtain or consent to, or obtain and consent to, specified medical treatment to be performed upon the ward or conservatee. Notice of the hearing on the petition under this subdivision shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

SEC. 144. Section 12102 of the Public Contract Code is amended to read:

12102. The Department of Information Technology and the Department of General Services shall maintain, in the State Administrative Manual, policies and procedures governing the acquisition and disposal of electronic data-processing and telecommunications goods and services.

(a) Acquisition of electronic data-processing and telecommunications goods and services shall be conducted through competitive means, except when the Director of General Services determines that (1) the goods and services proposed for acquisition are the only goods and services which can meet the state's need, or (2) the goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety. The acquisition mode to be used and the procedure to be followed shall be approved by the Director of General Services. The Department of General Services shall maintain, in the State Administrative Manual, appropriate criteria and procedures to ensure compliance with the intent of this chapter. These criteria and procedures shall include acquisition and contracting guidelines to be followed by state agencies with respect to the acquisition of electronic data-processing and telecommunications goods and services. These guidelines may be in the form of standard formats or model formats.

(b) Contract awards for all large-scale systems integration projects shall be based on the proposal that provides the most value-effective solution to the state's requirements, as determined by the evaluation criteria contained in the solicitation document. Evaluation criteria for procurement of electronic data-processing and telecommunications services, including systems integration, shall provide for the selection of a vendor on an objective basis not limited to cost alone.

(1) The Department of General Services shall invite active participation, review, advice, comment, and assistance from the private sector and state agencies in developing procedures to streamline and to make the acquisition process more efficient, including but not limited to consideration of comprehensive statements in the request for proposals

of the business needs and governmental functions, access to studies, planning documents, feasibility study reports and draft requests for proposals applicable to procurements, minimizing the time and cost of the proposal submittal and selection process, and development of a procedure for submission and evaluation of a single proposal rather than multiple proposals.

(2) Solicitations for acquisitions based on evaluation criteria other than cost alone shall provide that sealed cost proposals shall be submitted and that they shall be opened at a time and place designated in the solicitation for bids and proposals. Evaluation of all criteria, other than cost, shall be completed prior to the time designated for public opening of cost proposals, and the results of the completed evaluation shall be published immediately before the opening of cost proposals. The state's contact person for administration of the procurement shall be identified in the solicitation for bids and proposals, and that person shall execute a certificate under penalty of perjury, which shall be made a permanent part of the official procurement file, that all cost proposals received by the state have been maintained sealed and under lock and key until the time cost proposals are opened.

(c) The acquisition of hardware purchased independently of a system integration project may be made on the basis of lowest cost meeting all other specifications.

(d) The 5-percent small business preference provided for in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code and the regulations implementing that chapter shall be accorded to all qualifying small businesses.

(e) For all transactions formally advertised, evaluation of bidders' proposals for the purpose of determining contract award for electronic data-processing and telecommunications goods shall provide for consideration of a bidder's best financing alternatives, including lease or purchase alternatives, if any bidder so requests, not less than 30 days prior to the date of final bid submission, unless the acquiring agency can prove to the satisfaction of the Department of General Services that a particular financing alternative should not be so considered.

(f) Acquisition authority may be delegated by the Director of General Services to any state agency which has been determined by the Department of General Services to be capable of effective use of that authority. This authority may be limited by the Department of General Services. Acquisitions conducted under delegated authority shall be reviewed by the Department of General Services on a selective basis.

(g) To the extent practical, the solicitation documents shall provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

Further, it is the intent of the Legislature that, if a state electronic data processing advisory committee or a state telecommunications advisory committee is established by the Governor, the Director of Information Technology, or the Director of General Services, the policies and procedures developed by the Director of Information Technology and the Director of General Services in accordance with this chapter shall be submitted to that committee, including vendor representatives, for review and comment, and that the comment be considered by both departments prior to the adoption of any policy or procedure. It is also the intent of the Legislature that this section shall apply to the Department of General Services Information Technology Customer Council.

(h) Protest procedures shall be developed to provide bidders an opportunity to protest any formal, competitive acquisition conducted in accordance with this chapter. The procedures shall provide that protests must be filed no later than five working days after the issuance of an intent to award. Authority to protest may be limited to participating bidders. The Director of General Services, or a person designated by the director, may consider and decide on initial protests. A decision regarding an initial protest shall be final. If prior to the last day to protest, any vendor who has submitted an offer files a protest with the department against the awarding of the contract or purchase order on the ground that his or her bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relating to the protest. Within 10 calendar days after filing a protest, the protesting vendor shall file with the State Board of Control a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

(i) Electronic data processing and telecommunications goods which have been determined to be surplus to state needs shall be disposed of in a manner which will best serve the interests of the state. Procedures governing the disposal of surplus goods may include auction or transfer to local governmental entities.

(j) A vendor may be excluded from bid processes if the vendor's performance with respect to a previously awarded contract has been unsatisfactory, as determined by the state in accordance with established procedures which shall be maintained in the State Administrative Manual. This exclusion may not exceed 360 calendar days for any one determination of unsatisfactory performance. Any vendor excluded in accordance with this section shall be reinstated as a qualified vendor at any time during this 360-day period, upon demonstrating to the

department's satisfaction that the problems which resulted in the vendor's exclusion have been corrected.

SEC. 145. Section 2715.5 of the Public Resources Code is amended to read:

2715.5. (a) The Cache Creek Resource Management Plan, in conjunction with a site specific plan deemed consistent by the lead agency with the Cache Creek Resource Management Plan, until December 31, 2003, shall be considered to be a functional equivalent of a reclamation plan for the purposes of this chapter. No other reclamation plan shall be required to be reviewed and approved for any excavation project subject to the Cache Creek Resource Management Plan that is conducted in conformance with an approved site specific plan that is consistent with the Cache Creek Resource Management Plan, and the standards specified in that plan governing erosion control, channel stabilization, habitat restoration, flood control, or infrastructure maintenance, if that plan is reviewed and approved by a lead agency pursuant to this chapter.

(b) For purposes of this section, the board of supervisors of the county in which the Cache Creek Resource Management Plan is to be implemented shall prepare and file the annual report required to be prepared pursuant to Section 2207.

(c) Nothing in this section precludes an enforcement action by the board or the department brought pursuant to this chapter or Section 2207 if the lead agency or the director determines that a surface mining operator, acting under the authority of the Cache Creek Resource Management Plan, is not in compliance with the requirements of this chapter or Section 2207.

(d) ''Site specific plan,'' for the purposes of this section, means an individual project plan approved by the lead agency that is consistent with the Cache Creek Resource Management Plan. Site specific plans prepared in conformance with the Cache Creek Resource Management Plan shall, at a minimum, include the information required pursuant to subdivision (c) of Section 2772, shall comply with the requirements of Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Title 14 of the California Code of Regulations and shall be provided along with a financial assurance estimate to the department for review and comment pursuant to Section 2774. Notwithstanding the number of days authorized by paragraph (1) of subdivision (d) of Section 2774, the department shall review the site specific plan and the financial assurance estimate and prepare any written comments within 15 days from the date of receipt of the plan and the estimate.

(e) Prior to engaging in an excavation activity in conformance with the Cache Creek Resource Management Plan, a surface mining

operation shall be required to obtain financial assurances that meet the requirements of Section 2773.1.

(f) This section shall remain in effect only until December 31, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before December 31, 2003, deletes or extends that date.

SEC. 146. 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 13340 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.

SEC. 147. Section 42923 of the Public Resources Code is amended to read:

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, including 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.

SEC. 148. Section 237 of the Revenue and Taxation Code is amended to read:

237. (a) Property owned and operated by a federally designated Indian tribe or its tribally designated housing entity is not subject to taxation under this part if the property and entity meet the following requirements:

(1) The property is used exclusively and solely for the charitable purpose of providing rental housing and related facilities for tenants who are persons of low income (as defined in Section 50093 of the Health and Safety Code).

(2) The housing entity is nonprofit.

(3) No part of the net earnings of the housing entity inure to the benefit of any private shareholder or individual.

(b) In lieu of the tax imposed by this part, a tribe or tribally designated housing entity may agree to make payments to a county, city, city and county, or political subdivision of the state for services, improvements, or facilities provided by that entity for the benefit of a low-income housing project owned and operated by the tribe or tribally designated housing entity. Any payments in lieu of tax may not exceed the estimated cost to the city, county, city and county, or political subdivision of the state of the services, improvements, or facilities to be provided.

(c) A tribe or tribally designated housing entity applying for an exemption under this section shall provide the following documents to the assessor:

(1) Documents establishing that the designating tribe is federally recognized.

(2) Documents establishing that the housing entity has been designated by the tribe.

(3) Documents establishing that there is a deed restriction, agreement, or other legally binding document restricting the property's use to low-income housing and that provides that the property's housing units are continuously available to or occupied by persons who are low income, as defined by Section 50093 of the Health and Safety Code, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section, rents that do not exceed those prescribed by the terms of the financing agreements or financial assistance agreements.

SEC. 149. Section 2512 of the Revenue and Taxation Code is amended to read:

2512. If a remittance to cover a payment required by law to be made to a taxing agency prior to a specified date and hour is (a) deposited in the United States mail in a sealed envelope, properly addressed with the required postage prepaid, or (b) deposited for shipment with an independent delivery service that is an Internal Revenue Service designated delivery service or has been approved by the tax collector, in a sealed envelope or package, properly addressed with the required fee prepaid, delivery of which shall not be later than 5 p.m. on the next business day after the effective delinquent date, the remittance shall be deemed received on the date shown by the post office cancellation mark stamped upon the envelope containing the remittance, or the independent delivery service shipment date shown on the packing slip or air bill attached to the outside of the envelope or package containing the remittance, or on the date it was mailed if proof satisfactory to the tax collector establishes that the mailing occurred on an earlier date. The taxing agency is not required to accept a payment actually received in the mail if it is received more than 30 days after the date and time set by law for the payment. This section shall not, for purposes of applying subdivision (a) of Section 3707, apply to a remittance sent by mail or by independent delivery service for the redemption of tax-defaulted property.

SEC. 150. Section 2613 of the Revenue and Taxation Code is amended to read:

2613. All taxes on the secured roll shall be paid at the tax collector's office unless the board of supervisors, upon recommendation of the tax collector and on or before the day when payments may be made, orders that taxes be collected in any other or additional location within the county.

SEC. 151. Section 6471 of the Revenue and Taxation Code is amended to read:

6471. (a) Upon written notification by the board, any person whose estimated measure of tax liability under this part averages seventeen

thousand dollars ($17,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, make prepayments as prescribed in this section.

(1) In the first, third, and fourth calendar quarters, the person shall prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period.

(2) In the second calendar quarter, the person shall make a first prepayment of 90 percent of the amount of state and local tax liability for the first monthly period of the quarterly period and a second prepayment of either of the following:

(A) Ninety percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 90 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period.

(B) Ninety percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 50 percent of 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period.

(b) Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business that was in operation during all of that quarterly period, may satisfy the above monthly prepayment requirements for the first, third, and fourth calendar quarters by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

These persons may satisfy their prepayment requirements for the second calendar quarter by making a first prepayment of an amount equal to one-third of the measure of tax liability reported, and a second prepayment of an amount equal to one-half of the measure of tax liability reported, on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.

Prepayments shall be made during the quarterly periods designated by the board and during each succeeding quarterly period until further notified in writing by the board.

SEC. 152. Section 6472 of the Revenue and Taxation Code is amended to read:

6472. Except in the case of persons required to remit amounts due in accordance with Article 1.2 (commencing with Section 6479.3), for purposes of Section 6471, a prepayment shall be accompanied by a

report of the amount of the prepayment in a form prescribed by the board and shall be made to the board as follows:

(a) In the first, third, and fourth calendar quarters, on or before the 24th day next following the end of each of the first two monthly periods of each quarterly period.

(b) In the second calendar quarter, as follows:

(1) The first prepayment on or before the 24th day next following the end of the first monthly period of the quarterly period.

(2) The second prepayment on or before the 24th day of the third monthly period of the quarterly period for the second monthly period and the first 15 days of the third monthly period of the quarterly period.

SEC. 153. Section 426 of the Vehicle Code is amended to read:

426. ''New motor vehicle dealer'' is a dealer, as defined in Section 285, who, in addition to the requirements of that section, either acquires for resale new and unregistered motor vehicles from manufacturers or distributors of those motor vehicles or acquires for resale new and unregistered off-highway motorcycles from manufacturers or distributors of the vehicles. No distinction shall be made, nor any different construction be given to the definition of ''new motor vehicle dealer'' and ''dealer'' except for the application of the provisions of Chapter 6 (commencing with Section 3000) of Division 2 and Section 11704.5. The provisions of Sections 3001 and 3003 shall not, however, apply to a dealer who deals exclusively in motorcycles.

SEC. 154. Section 1666 of the Vehicle Code is amended to read:

1666. The department shall do all of the following:

(a) Include at least one question in each test of an applicant's knowledge and understanding of the provisions of this code, as administered pursuant to Section 12804.9 or 12814, to verify that the applicant has read and understands the table of blood alcohol concentration published in the Driver's Handbook made available pursuant to subdivision (b) of Section 1656. In order to minimize costs, the question or questions shall be initially included at the earliest opportunity when the test is otherwise revised or reprinted.

(b) Include with each driver's license or certificate of renewal and each vehicle registration renewal mailed by the department, information which shows with reasonable certainty the amount of alcohol consumption necessary for a person to reach a 0.08 percent blood alcohol concentration by weight.

SEC. 155. Section 5204 of the Vehicle Code is amended to read:

5204. (a) Except as provided by subdivisions (b) and (c), a tab shall indicate the year of expiration and a tab shall indicate the month of expiration. Current month and year tabs shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which license plates were issued, and, when so attached, the

license plate with the tabs shall, for the purposes of this code, be deemed to be the license plate, except that truck tractors, and commercial motor vehicles having an unladen weight of 10,000 pounds or more, shall display the current month and year tabs upon the front license plate assigned to the truck tractor or commercial motor vehicle. Vehicles that fail to display current month and year tabs or display expired tabs are in violation of this section.

(b) The requirement of subdivision (a) that the tabs indicate the year and the month of expiration does not apply to fleet vehicles subject to Article 9.5 (commencing with Section 5301).

(c) Subdivision (a) does not apply when proper application for registration has been made pursuant to Section 4602 and the new indicia of current registration have not been received from the department.

(d) This section is enforceable against any motor vehicle that is driven, moved, or left standing upon a highway, or in an offstreet public parking facility, in the same manner as provided in subdivision (a) of Section 4000.

SEC. 156. Section 9980 of the Vehicle Code is amended to read:

9980. If the manufacturer of the engine of a new motor vehicle is different from the manufacturer of the vehicle, the vehicle shall be labeled as required by Section 9981.

For purposes of this chapter, the manufacturer of a motor vehicle engine is different from the vehicle manufacturer if a majority of parts, or most of the work of assembly, of the engine is provided by a person other than the vehicle manufacturer or a subsidiary or affiliate of the vehicle manufacturer. For purposes of this chapter, an ''affiliate'' is an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the manufacturer of the vehicle.

SEC. 157. Section 12808 of the Vehicle Code is amended to read:

12808. (a) The department shall, before issuing or renewing any license, check the record of the applicant for conviction of traffic violations and traffic accidents.

(b) The department shall, before issuing or renewing any license, check the record of the applicant for notices of failure to appear in court filed with it and shall withhold or shall not issue a license to any applicant who has violated his or her written promise to appear in court unless the department has received a certificate issued by the magistrate or clerk of the court hearing the case in which the promise was given showing that the case has been adjudicated or unless the applicant's record is cleared as provided in Chapter 6 (commencing with Section 41500) of Division 17. In lieu of the certificate of adjudication, a notice from the court stating that the original records have been lost or destroyed shall permit the department to issue a license.

(c) (1) Any notice received by the department pursuant to Section 40509, 40509.1, or 40509.5, except subdivision (c) of Section 40509.5, that has been on file five years or more may be removed from the department records and destroyed at the discretion of the department.

(2) Any notice received by the department under subdivision (c) of Section 40509.5 that has been on file 10 years or more may be removed from the department records and destroyed at the discretion of the department.

SEC. 158. Section 12815 of the Vehicle Code is amended to read:

12815. (a) If a driver's license issued under this code is lost, destroyed or mutilated, or a new true, full name is acquired, the person to whom it was issued shall obtain a duplicate upon furnishing to the department (1) satisfactory proof of that loss, destruction, or mutilation and (2) if the licensee is a minor, evidence of permission to obtain a duplicate secured from the parents, guardian, or person having custody of the minor. Any person who loses a driver's license and who, after obtaining a duplicate, finds the original license shall immediately destroy the original license.

(b) A person in possession of a valid driver's license who has been informed either by the department or by a law enforcement agency that the document is mutilated shall surrender the license to the department not later than 10 days after that notification.

(c) For purposes of this section, a mutilated license is one that has been damaged sufficiently to render any or all of the elements of identity set forth in Sections 12800.5 and 12811 unreadable or unidentifiable through visual, mechanical, or electronic means.

SEC. 159. Section 13377 of the Vehicle Code is amended to read:

13377. (a) The department shall not issue or renew, or shall revoke, the tow truck driver certificate of an applicant or holder for any of the following causes:

(1) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 220 of the Penal Code.

(2) The tow truck driver certificate applicant or holder has been convicted of a violation of paragraph (1), (2), (3), or (4) of subdivision (a) of Section 261 of the Penal Code.

(3) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 264.1, 267, 288, or 289 of the Penal Code.

(4) The tow truck driver certificate applicant or holder has been convicted of any felony or three misdemeanors which are crimes of violence, as defined in subdivision (i) of Section 11105.3 of the Penal Code.

(5) The tow truck driver certificate applicant's or holder's driving privilege has been suspended or revoked in accordance with any provisions of this code.

(b) For purposes of this section, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. For purposes of this section, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, is conclusive evidence of the conviction.

(c) Whenever the department receives information from the Department of Justice, or the Federal Bureau of Investigation, that a tow truck driver has been convicted of an offense specified in paragraph (1), (2), (3), or (4) of subdivision (a), the department shall immediately notify the employer and the Department of the California Highway Patrol.

(d) An applicant or holder of a tow truck driver certificate, whose certificate was denied or revoked, may reapply for a certificate whenever the applicable felony or misdemeanor conviction is reversed or dismissed. If the cause for the denial or revocation was based on the suspension or revocation of the applicant's or holder's driving privilege, he or she may reapply for a certificate upon restoration of his or her driving privilege. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to 1203.4a of the Penal Code is not a dismissal for purposes of this section.

SEC. 160. Section 16020.1 of the Vehicle Code is amended to read:

16020.1. (a) On and after January 1, 2004, Section 4000.37 does not apply in the County of Los Angeles.

(b) On and after January 1, 2004, subdivisions (a) and (b) of Section 16028 do not apply to a person who drives a motor vehicle upon a highway in the County of Los Angeles.

SEC. 161. Section 21051 of the Vehicle Code is amended to read:

21051. The following sections apply to trolley coaches:

(a) Sections 1800, 4000, 4001, 4002, 4003, 4006, 4009, 4150, 4151, 4152, 4153, 4155, 4156, 4158, 4166, 4300 to 4309, inclusive, 4450 to 4454, inclusive, 4457, 4458, 4459, 4460, 4600 to 4610, inclusive, 4750, 4751, 4850, 4851, 4852, 4853, 5000, 5200 to 5205, inclusive, 5904, 6052, 8801, 9254, and 40001 with respect to 4000, relating to original and renewal of registration.

(b) Sections 9250, 9265, 9400, 9406, 9407, 9408, 9550, 9552, 9553, 9554, 9800 to 9808, inclusive, 14901, 42230 to 42233, inclusive, relating to registration and other fees.

(c) Sections 2800, 10851, 10852, 10853, 20001 to 20009, inclusive, 21052, 21053, 21054, 21450 to 21457, inclusive, 21461, 21650, 21651, 21658, 21659, 21700, 21701, 21702, 21703, 21709, 21712, 21750,

21753, 21754, 21755, 21800, 21801, 21802, 21806, 21950, 21951, 22106, 22107, 22108, 22109, 22350, 22351, 22352, 22400, 22450 to 22453, inclusive, 23103, 23104, 23110, 23152, 23153, 40831, 42002 with respect to 10852 and 10853, and 42004, relating to traffic laws.

(d) Sections 26706, 26707, and 26708, relating to equipment.

(e) Sections 17301, 17302, 17303, 21461, 35000, 35100, 35101, 35105, 35106, 35111, 35550, 35551, 35750, 35751, 35753, 40000.1 to 40000.25, inclusive, 40001, 40003, and 42031, relating to the size, weight, and loading of vehicles.

SEC. 162. Section 22511.56 of the Vehicle Code is amended to read:

22511.56. (a) Any person using a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 for parking as permitted by Section 22511.5 shall, upon request of any peace officer or person authorized to enforce parking laws, ordinances, or regulations, present identification and evidence of the issuance of that placard to that person.

(b) Failure to present the requested identification and evidence of the issuance of that placard shall be a rebuttable presumption that the placard is being misused and that the associated vehicle has been parked in violation of the provisions of Section 22507.8.

(c) In addition to any other applicable penalty for the misuse of a placard, the officer or parking enforcement person may confiscate a placard being used for parking purposes that benefit any person other than the person to whom the placard was issued by the Department of Motor Vehicles. A placard lawfully used by a person transporting a disabled person pursuant to subdivision (b) of Section 4461 shall not be confiscated.

SEC. 163. Section 34505.9 of the Vehicle Code is amended to read:

34505.9. (a) An ocean marine terminal that receives and dispatches intermodal chassis may conduct the intermodal roadability inspection program, as described in this section, in lieu of the inspection required by Section 34505.5, if the terminal meets all of the following conditions:

(1) More than 1,000 chassis are based at the ocean marine terminal.

(2) The ocean marine terminal, following the two most recent consecutive inspections required by Section 34501.12, has received satisfactory compliance ratings, and the terminal has received no unsatisfactory compliance ratings as a result of any inspection conducted in the interim between the consecutive inspections conducted under Section 34501.12.

(3) Each intermodal chassis exiting the ocean marine terminal shall have a current decal and supporting documentation in accordance with Section 396.17 of Title 49 of the Code of Federal Regulations.

(4) The ocean marine terminal's intermodal roadability inspection program consists of all of the following:

(A) Each time an intermodal chassis is released from the ocean marine terminal, the chassis shall be inspected. The inspection shall include, but not be limited to, brake adjustment, brake system components and leaks, suspension systems, tires and wheels, vehicle connecting devices, and lights and electrical system.

(B) Each inspection shall be recorded on a daily roadability inspection report, which shall include, but not be limited to, all of the following:

(i) Positive identification of the intermodal chassis, including company identification number.

(ii) Date and nature of each inspection.

(iii) Signature of the ocean marine terminal operator or an authorized representative.

(C) Records of each inspection conducted pursuant to subparagraph (A) shall be retained for 90 days at the ocean marine terminal at which each chassis is based and shall be made available upon request by any authorized employee of the department.

(D) Defects noted on any intermodal chassis shall be repaired, and the repairs shall be recorded on the intermodal chassis maintenance file, before the intermodal chassis is released from the control of the ocean marine terminal. No vehicle subject to this section shall be operated on the highway other than to a place of repair until all defects listed during the inspection conducted pursuant to subparagraph (A) have been corrected and attested to by the signature of the operator's authorized representative.

(E) Records of maintenance or repairs performed pursuant to the inspection in subparagraph (A) shall be maintained at the ocean marine terminal for two years and shall be made available upon request of the department. Repair records may be retained in a computer system if printouts of those records are provided to the department upon request.

(F) Individuals performing ocean marine terminal roadability inspections pursuant to this section shall be qualified, at a minimum, as set forth in Section 396.19 of Title 49 of the Code of Federal Regulations. Evidence of each inspector's qualification shall be retained by the ocean marine terminal operator for the period during which the inspector is performing intermodal roadability inspections.

(b) Following a terminal inspection in which the department determines that an operator of an ocean marine terminal utilizing the intermodal roadability inspection program has failed to comply with the requirements of this section, the department shall conduct a reinspection within 120 days as specified in subdivision (h) of Section 34501.12. If the terminal fails the reinspection, the department shall direct the operator to comply with the requirements of Section 34505.5 until eligibility to utilize the inspection program described in this section is

reestablished pursuant to subdivision (a). If any inspection results in an unsatisfactory rating due to conditions presenting an imminent danger to the public safety, as described in Section 34505.6 or 34505.7, the department immediately shall direct the operator to comply with the requirements of Section 34505.5 until eligibility to utilize the inspection program described in this section is reestablished pursuant to subdivision (a).

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

(1) ''Intermodal chassis'' means a trailer designed to carry intermodal freight containers.

(2) ''Ocean marine terminal'' means a terminal, as defined in Section 34515, located at a port facility that engages in the loading and unloading of the cargo of ocean-going vessels.

SEC. 164. Section 35790.1 of the Vehicle Code is amended to read:

35790.1. In addition to the requirements and conditions contained in Section 35790 and notwithstanding any other provision of law, all of the following conditions and specifications shall be complied with to move any manufactured home, as defined in Section 18007 of the Health and Safety Code, that is in excess of 14 feet in total width, but not exceeding 16 feet in total width, exclusive of lights and devices provided for in Sections 35109 and 35110, upon any highway under the jurisdiction of the entity granting the permit:

(a) For the purposes of width requirements under this code, the overall width of manufactured housing specified in this section shall be the overall width, including roof overhang, eaves, window shades, porch roofs, or any other part of the manufactured house that cannot be removed for the purposes of transporting upon any highway.

(b) Unless otherwise exempted under this code, all combinations of motor vehicles and manufactured housing shall be equipped with service brakes on all wheels. Service brakes required under this subdivision shall be adequate, supplemental to the brakes on the towing vehicle, to enable the combination of vehicles to comply with the stopping distance requirements of Section 26454.

(c) In addition to the requirements contained in Section 26304, the breakaway brake device on any manufactured housing unit equipped with electric brakes shall be powered by a wet cell rechargeable battery that is of the same voltage rating as the brakes and has sufficient charge to hold the brakes applied for not less than 15 minutes.

(d) Notwithstanding any other provision of this code, the weight imposed upon any tire, wheel, axle, drawbar, hitch, or other suspension component on a manufactured housing unit shall not exceed the manufacturer's maximum weight rating for the item or component.

(e) In addition to the requirements in subdivision (d), the maximum allowable weight upon one manufactured housing unit axle shall not exceed 6,000 pounds, and the maximum allowable weight upon one manufactured housing unit wheel shall not exceed 3,000 pounds.

(f) Manufactured housing unit tires shall be free from defects, have at least $^{2}/_{32}$ of an inch tread depth, as determined by tire tread wear indicators, and shall comply with specifications and requirements contained in Section 3280.904(b)(8) of Title 24 of the Code of Federal Regulations.

(g) Manufactured housing unit manufacturers shall provide transporters with a certification of compliance document, certifying the manufactured housing unit complies with the specifications and requirements contained in subdivisions (d), (e), and (f). Each certification of compliance document shall identify, by serial or identification number, the specific manufactured housing unit being transported and shall be signed by a representative of the manufacturer. Each transporter of manufactured housing units shall have in his or her immediate possession a copy of the certification of compliance document and shall make the document available upon request by any member of the Department of the California Highway Patrol, any authorized employee of the Department of Transportation, or any regularly employed and salaried municipal police officer or deputy sheriff.

(h) Manufactured housing unit dealers shall provide transporters with a certification of compliance document, specifying that all modifications, equipment additions, or loading changes by the dealer have not exceeded the gross vehicle weight rating of the manufactured housing unit or the axle and wheel requirements contained in subdivisions (d), (e), and (f). Each certification of compliance document shall identify, by serial or identification number, the specific manufactured housing unit being transported and shall be signed by a representative of the dealer. Each transporter of manufactured housing units shall have in his or her immediate possession a copy of the certification of compliance document and shall make the document available upon request by any member of the Department of the California Highway Patrol, any authorized employee of the Department of Transportation, or any regularly employed and salaried municipal police officer or deputy sheriff.

(i) Transporters of manufactured housing units shall not transport any additional load in, or upon, the manufactured housing unit that has not been certified by the manufactured housing unit's manufacturer or dealer.

(j) Every hitch, coupling device, drawbar, or other connections between the towing unit and the towed manufactured housing unit shall

be securely attached and shall comply with Subpart J of Part 3280 of Title 24 of the Code of Federal Regulations.

(k) Manufactured housing units shall be equipped with an identification plate, specifying the manufacturer's name, the manufactured housing unit's serial number, the gross vehicle weight rating of the manufactured housing unit, and the gross weight of the cargo that may be transported in or upon the manufactured housing unit without exceeding the gross vehicle weight rating. The identification plate shall be permanently attached to the manufactured housing unit and shall be positioned adjacent to, and meet the same specifications and requirements applicable to, the certification label required by Subpart A of Part 3280 of Title 24 of the Code of Federal Regulations.

(*l*) Manufactured housing units shall be subject to all lighting requirements contained in Sections 24603, 24607, 24608, and 24951. When transported during darkness, manufactured housing units shall additionally be subject to Sections 24600 and 25100.

(m) Manufactured housing units shall have all open sides covered by plywood, hard board, or other rigid material, or by other suitable plastics or flexible material. Plastic or flexible side coverings shall not billow or flap in excess of six inches in any one place. Units that are opened on both sides may be transported empty with no side coverings.

(n) Transporters of manufactured housing units shall make available all permits, licenses, certificates, forms, and any other relative document required for the transportation of manufactured housing upon request by any member of the Department of the California Highway Patrol, any authorized employee of the Department of Transportation, or any regularly employed and salaried municipal police officer or deputy sheriff.

(o) The Department of Transportation, in cooperation with the Department of the California Highway Patrol, or the local authority, shall require pilot car or special escort services for the movement of any manufactured housing unit pursuant to this section, and may establish additional reasonable permit regulations, including special routing requirements, as necessary in the interest of public safety and consistent with this section.

(p) The Department of Transportation shall not issue a permit to move a manufactured home that is in excess of 14 feet in total width unless that department determines that all of the conditions and specifications set forth in this section have been met.

SEC. 165. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b) of this section or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social

Services, or upon the establishment of an order of guardianship pursuant to Section 360, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child. Child welfare services, when provided, shall be provided as follows:

(1) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall not exceed a period of 12 months from the date the child entered foster care, except as otherwise provided in paragraph (3).

(2) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under the age of three years, court-ordered services shall not exceed a period of six months from the date the child entered foster care.

(3) For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under the age of three years on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services to some or all of the sibling group may be limited to a period of six months from the date the child entered foster care. For the purposes of this paragraph, ''a sibling group'' shall mean two or more children who are related to each other as full or half-siblings.

Regardless of the age of the child, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

Notwithstanding paragraphs (1), (2), and (3), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services

have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Physical custody of the child by the parents or guardians during the applicable time period under paragraph (1), (2), or (3) shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

In cases where the child was under the age of three years on the date of the initial removal from the physical custody of his or her parent or guardian or is a member of a sibling group as described in paragraph (3), the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail himself or herself of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months. The court shall inform the parent or guardian of the factors used in subdivision (e) of Section 366.21 to determine whether to limit services to six months for some or all members of a sibling group as described in paragraph (3).

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.

(5) That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half-sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half-sibling of the child, or between the child or a sibling or half-sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the child's, sibling's, or half-sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half-sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child, sibling, or half-sibling in a closed space; or any other torturous act or omission that would be reasonably understood to cause serious emotional damage.

(7) That the parent is not receiving reunification services for a sibling or a half-sibling of the child pursuant to paragraph (3), (5), or (6).

(8) That the child was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state that, if committed in this state, would

constitute one of those offenses. This paragraph only applies to the parent who committed the offense or act.

(9) That the child has been found to be a child described in subdivision (g) of Section 300, that the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child. For the purposes of this paragraph, ''serious danger'' means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, ''willful abandonment'' shall not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.

(10) That (A) the court-ordered termination of reunification services for any siblings or half-siblings of the child because the parent or guardian failed to reunify with the sibling or half-sibling after the sibling or half-sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a), or (B) the parental rights of a parent or guardian over any sibling or half-sibling of the child had been permanently severed, and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half-sibling of that child from that parent or guardian.

(11) That the parent or guardian of the child has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(12) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible.

(13) That the parent or guardian of the child has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in his or her custody and does not wish to receive family maintenance or reunification services.

The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption.

The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.

(14) That the parent or guardian has on one or more occasions willfully abducted the child or child's sibling or half-sibling from his or her placement and refused to disclose the child's or child's sibling or half-sibling's whereabouts, refused to return physical custody of the child or child's sibling or half-sibling to his or her placement, or refused to return physical custody of the child or child's sibling or half-sibling to the social worker.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The social worker shall prepare a report that discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits specified in subdivision (a).

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), or (14) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

In addition, the court shall not order reunification in any situation described in paragraph (5) of subdivision (b) unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The social worker shall investigate the circumstances leading to the removal of the child and advise the court whether there are circumstances that indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the child may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the child, the court shall order the social worker to provide family reunification services in accordance with this subdivision.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and child through collect telephone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, or Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), or (14) of subdivision (b) or paragraph (1) of

subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.26, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, ''extended family'' for the purpose of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3. As used in this paragraph, ''relative'' means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words ''great,'' ''great-great,'' or ''grand,'' or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(5) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or

guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and, if so, a description of the condition.

(6) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(h) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the child's sibling or half-sibling.

(2) The circumstances under which the abuse or harm was inflicted on the child or the child's sibling or half-sibling.

(3) The severity of the emotional trauma suffered by the child or the child's sibling or half-sibling.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

SEC. 166. Section 727.3 of the Welfare and Institutions Code is amended to read:

727.3. The purpose of this section is to provide a means to monitor the care of every child in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 to ensure that everything reasonably possible is done to facilitate the safe early return of the child to his or her own home or to establish a permanent plan for the child.

(a) Whenever the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the juvenile court shall order the probation department to ensure the provision of services to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) A child shall be deemed to have entered foster care, for purposes of this section, on the date that is 60 days after the date on which the minor was removed from his or her home.

(c) The status of every child declared a ward and placed in foster care shall be reviewed at the time of the initial placement order and then as determined by the court but no less frequently than once every six months, as calculated from the date the minor entered foster care. If the court so elects, the court may declare the hearing at which the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727 as the first status review hearing. At each status review hearing, the court shall consider the safety of the child and make findings and orders which determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the child to the child's home or to complete whatever steps are necessary to finalize the permanent placement of the child.

(3) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(4) The likely date by which the child may be returned to and safely maintained in the home or placed for legal guardianship or adoption.

(d) The status review hearings required by subdivision (c) may be heard by an administrative review panel, provided:

(1) The administrative review shall be open to participation by the child and parents or legal guardians and all those persons entitled to notice under Section 727.4.

(2) The child and his or her parents or legal guardians receive proper notice as required in Section 727.4.

(3) The administrative review panel is composed of persons appointed by the presiding judge of the juvenile court, the membership of which shall include at least one person who is not responsible for the case management of, or delivery of services to, the child or the parents who are the subject of the review.

(4) The findings of the administrative review panel shall be submitted to the juvenile court for the court's approval and shall become part of the official court record.

(e) At the status review hearing the court shall order return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The probation department shall have the burden of establishing that detriment. The failure of the child to participate in court-ordered treatment programs shall be prima facie evidence that the return of the child would be detrimental. In making its determination, the

court shall review and consider the social study report and recommendations pursuant to Section 706.5 and the report and recommendations of any child advocate appointed for the child in the case, and shall consider the efforts or progress, or both, demonstrated by the child and family and the extent to which the child availed himself or herself of the services provided.

(f) There shall be a permanency planning hearing within 12 months of the date the child entered foster care and periodically thereafter, but no less frequently than every 12 months during the period of placement. It shall be the duty of the probation officer to prepare a written social study report pursuant to Section 706.5 containing a statement of the responsibilities of the parents or legal guardians, the probation department, the caseworker of the probation department, the foster parents, and the child. The written social study shall also describe the goals for the child's placement and care with the department, including the services provided to achieve the goal that the child shall exhibit lawful and productive behavior, and the appropriate plan for permanence for the child. The report shall be submitted to the court at the permanency planning hearing.

(1) At all permanency planning hearings, the court shall determine the permanent plan for the child that includes a determination of whether the child will be returned to the physical custody of the parent or legal guardian. Upon findings that there is substantial probability that additional services will aid the safe return of the child to the physical custody of his or her parents or legal guardian within six months, the court may order further reunification services to be provided to the child and parent or legal guardian for a period not to exceed six months. For purposes of this section, in order to find a substantial probability, the court shall be required to find the child and his or her parents or guardians to have demonstrated the capacity and ability to complete the objectives of his or her case plan. If the child is not returned to a parent or legal guardian at the permanency hearing, the court shall determine whether or not the child should be referred for adoption proceedings, referred for legal guardianship pursuant to subdivision (c) of Section 728, or referred to an alternative planned permanent living arrangement, including whether, because of the child's special needs or circumstances, the child should be continued in foster care on a permanent basis. The court shall also determine the extent of progress in achieving the treatment goals of the plan. In the case of a child who has reached 16 years of age, the hearing shall, in addition, determine the services needed to assist the child to make the transition from foster care to independent living.

(2) An ''alternative planned permanent living arrangement'' means a permanent foster care placement with a specific identified foster family on a permanent basis, a facility described in Section 11402, or an

independent living arrangement, such as emancipation by marriage, court order, or reaching the age of majority.

(3) When a minor is placed in long-term foster care with a relative, the court may authorize the relative to provide the same legal consent for the minor's medical, surgical, and dental care, and education as the custodial parent of the minor.

(4) If the child has a continuing involvement with his or her parents or legal guardians, the parents or legal guardians shall be involved in the planning for a permanent placement. The court order placing the child in a permanent placement shall include a specification of the nature and frequency of visiting arrangements with the parents or legal guardians.

(5) Any change in the placement of a child in permanent foster care or the responsibilities of the foster parents for that child shall be made only by order of the court that ordered the placement pursuant to a petition filed pursuant to Section 778.

(g) Prior to any status or permanency hearing involving a child in the physical custody of a community care facility or foster family agency, the facility or agency shall file with the court a report containing its recommendations. Prior to any status or permanency hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations, filed pursuant to this subdivision.

(h) If the minor is not returned to the custody of a parent or legal guardian at the permanency hearing, the court shall do one of the following:

(1) Continue the case for up to six months for a permanency reviewing hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or guardian.

The court shall inform the parent or legal guardian that if the minor cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 727.31 may be instituted. The court shall not order that a hearing pursuant to Section 727.31 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(2) Order that the minor remain in long-term foster care, but only if the court finds by clear and convincing evidence, based upon the evidence already presented to it, including a recommendation by the

State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason for determining that a hearing held pursuant to Section 727.31 is not in the best interest of the minor because the minor is not a proper subject for adoption and has no one willing to accept legal guardianship. For purposes of this section, a recommendation by the State Department Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency that adoption is not in the best interest of the minor shall constitute a compelling reason for the court's determination. That recommendation shall be based on the present circumstances of the minor and shall not preclude a different recommendation at a later date if the minor's circumstances change.

(3) Order that the hearing be held within 120 days, pursuant to Section 727.31, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

(i) Notwithstanding subdivision (h), the court shall not order a hearing pursuant to Section 727.31 if the probation department has documented a compelling reason for determining that the termination of parental rights would not be in the minor's best interests. A compelling reason is either of the following:

(1) A determination made by the probation officer that any of the following applies:

(A) The parent or legal guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) The permanent plan is for the minor to return to his or her own home.

(C) A child 12 years of age or older objects to termination of parental rights.

(D) The minor is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the minor a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(2) A determination by the licensed county adoption agency or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency that the minor is unlikely to be adopted and the child is living with a relative who is unable or unwilling to adopt the child because exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the minor but who is willing and capable of providing the minor with a stable and permanent home environment, and the removal of the minor from the physical custody of his or her relative

or foster parent would be detrimental to the minor's emotional well-being.

(j) Whenever the court orders that a hearing pursuant to Section 727.31 shall be held, it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount and nature of any contact between the minor and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each minor shall be reviewed on a case-by-case basis, ''extended family'' for the purpose of the paragraph shall include, but not be limited to, the minor's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation of seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(7) Whenever a court orders a hearing pursuant to Section 727.31, it shall order that the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or the licensed county adoption agency has exclusive responsibility for determining the adoptive placement and making all adoption-related decisions.

(k) Nothing in this section shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department

of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or to a licensed county adoption agency at any time while the minor is a ward of the juvenile court if the department agency is willing to accept the relinquishment.

SEC. 167. Section 727.31 of the Welfare and Institutions Code is amended to read:

727.31. (a) This section applies to all minors placed in out-of-home care pursuant to Section 727.3 and for whom the juvenile court orders a hearing to consider permanently terminating parental rights to free the minor for adoption.

Except for subdivision (i) of Section 366.26, the procedures for permanently terminating parental rights for minors described by this section shall proceed exclusively pursuant to Section 366.26.

At the beginning of any proceeding pursuant to this section, if the minor is not being represented by previously retained or appointed counsel, the court shall appoint counsel to represent the minor, and the minor shall be present in court unless the minor or the minor's counsel so requests and the court so orders. If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and the parent. Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses as specified in subdivision (f) of paragraph (3) of Section 366.26.

(b) If the court, by order of judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or a licensed county adoption agency for adoptive placement by the agency. The order shall state that responsibility for custody of the minor shall be held jointly by the probation department and the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or the licensed county adoption agency. The order shall also state that the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or the licensed county adoption agency has exclusive responsibility for determining the adoptive placement and for making all adoption-related decisions. However, no petition for adoption may be granted until the appellate rights of the natural parents have been exhausted.

(c) The notice procedures for terminating parental rights for minors described by this section shall proceed exclusively pursuant to Section 366.23.

SEC. 168. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) His or her parents or guardian.

(E) The attorneys for the parties, and judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The superintendent or designee of the school district where the minor is enrolled or attending school.

(G) Members of the child protective agencies as defined in Section 11165.9 of the Penal Code.

(H) The State Department of Social Services to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements.

(I) To authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department

of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services shall not contain the name of the minor.

(J) Members of children's multidisciplinary teams, persons or agencies providing treatment or supervision of the minor.

(K) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(2) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, which pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or which could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (J), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or

indirectly connected to the juvenile case that is the subject of the petition. This paragraph shall not be construed to limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of and an opportunity to file an objection to the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, shall not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: ''Unlawful Dissemination Of This Information Is A Misdemeanor.'' Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(e) For purposes of this section, a ''juvenile case file'' means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

SEC. 169. Section 1788 of the Welfare and Institutions Code is amended to read:

1788. Each Runaway Youth and Families in Crisis Project established under this article shall provide services which shall include, but not be limited to, all of the following:

(a) Temporary shelter and related services to runaway youth. The services shall include:

(1) Food and access to overnight shelter for no more than 14 days.

(2) Counseling and referrals to services which address immediate emotional needs or problems.

(3) Screening for basic health needs and referral to public and private health providers for health care. Shelters that are not equipped to house a youth with substance abuse problems shall refer that youth to an appropriate clinic or facility. The shelter shall monitor the youth's progress and assist the youth with services upon his or her release from the substance abuse facility.

(4) Long-term planning so that the youth may be returned to the home of the parent or guardian under conditions which favor long-term reunification with the family, or so the youth can be suitably placed in a situation outside of the parental or guardian home when such reunification is not possible.

(5) Outreach services and activities to locate runaway youth and to link them with project services.

(b) Family crisis resolution services to runaway and nonrunaway youth and their families which shall include:

(1) Parent training.

(2) Family counseling.

(3) Services designed to reunify youth and their families.

(4) Referral to other services offered in the community by public and private agencies.

(5) Long-term planning so that the youth may be returned to the home of the parent or guardian under conditions which favor long-term reunification with the family, or so the youth can be suitably placed in a situation outside of the parental or guardian home when such reunification is not possible.

(6) Followup services to ensure that the return to the parent or guardian or the placement outside of the parental or guardian home is stable.

(7) Outreach services and activities to locate runaway and nonrunaway youth and to link them with project services.

(c) Transitional living services shall include:

(1) Long-term shelter.

(2) Independent living skill services.

(3) Preemployment and employment skills training.

(4) Home responsibilities training.

(d) Where appropriate and necessary, some of the services identified under this section must also be provided in the local community and in the home of project clients. Projects shall notify parents that their children are staying at a project site consistent with state and federal parent notification requirements.

SEC. 170. Section 1789.5 of the Welfare and Institutions Code is amended to read:

1789.5 The Office of Criminal Justice Planning shall monitor and evaluate the projects established under this article, and shall report to the Legislature after the first and third year of the program's operation the results of its evaluation. In addition, each project shall be responsible for evaluating the effectiveness of its programs and services.

SEC. 171. Section 9564 of the Welfare and Institutions Code is amended to read:

9564. Nothing in this chapter shall preclude expansion of Multipurpose Senior Services Program services if cost effectiveness is demonstrated. The expansion shall be accomplished by establishing new sites, by increasing numbers of clients served in existing sites, or by expanding the number of sites to include additional geographic regions of the state.

SEC. 172. Section 14105.26 of the Welfare and Institutions Code is amended 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, those 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.

SEC. 173. Section 25002 of the Welfare and Institutions Code is amended to read:

25002. To develop the options for achieving universal health care coverage described in Section 25001, the secretary shall establish a process by which these options are developed. The process shall at a minimum include the following:

(a) The examination and utilization of research results from the study performed by the University of California with regard to methods of financing, delivering and defining universal health coverage, done pursuant to the criteria in Senate Concurrent Resolution 100 of the 1997–98 Regular Session of the Legislature.

(b) The examination and utilization of other data and information, as requested by the secretary or provided to the secretary, with regard to methods of financing, delivering, or defining universal health coverage.

(c) Developing a process by which representatives of health care consumers, providers, insurers, health care workers, advocates, counties, and all other interested parties are engaged in discussion and debate of the issues faced by the state in providing universal health coverage. The secretary shall develop the methods by which this discussion occurs, provided that it is broadly inclusive of all groups with an interest in universal health coverage.

(d) Interagency participation including, but not limited to, the State Department of Health Services, the State Department of Mental Health, the Department of Finance, the Managed Risk Medical Insurance Board, the Department of Consumer Affairs, the Public Employees' Retirement System, the State Department of Social Services, the Department of Corporations, the Department of Insurance, and any other appropriate agencies which the secretary determines can contribute to the effort to provide universal health coverage.

(e) Obtaining information from the United States Health Care Financing Administration regarding whether federal waivers or other forms of federal participation are necessary.

SEC. 174. Section 1 of Chapter 868 of the Statutes of 1998, as amended by Section 1 of Chapter 153 of the Statutes of 1999, is amended to read:

Section 1. (a) Commencing with the 1999–2000 school year, the area of Eastview as delineated in subdivision (c) is an optional attendance area. Parents and legal guardians residing in the area of Eastview may make an election for each pupil as to whether that pupil will attend schools in the Palos Verdes Peninsula Unified School District or the Los Angeles Unified School District. For the 1999–2000 school year, the parents or legal guardians of all pupils who reside in the area of Eastview may make an election by March 1, 1999, as to the school district their child or children will attend. For the 2000–01 school year and each subsequent school year, the parents or legal guardians residing in the area of Eastview shall make their initial election as to the school district their child or children will attend by March 1 of the school year in which the pupil first enters elementary school, and shall make a second election by March 1 of the school year in which the pupil enters middle school. Parents and legal guardians residing in the area of Eastview may elect, for each of their children, whether to attend schools in the Palos Verdes Peninsula Unified School District or the Los Angeles Unified School District twice during the time that their child attends school. This election may be made once during any time the child attends kindergarten or any of grades 1 to 8, inclusive, and be made once during the time the child attends any of grades 9 to 12, inclusive. Parents or legal guardians who newly move into the area of Eastview shall make their initial election as to the school district their child or children will attend when the parents or legal guardians first enroll their child or children in public school. This section is applicable to all pupils who reside within the area of Eastview of Los Angeles County regardless of whether the pupil previously attended a private school.

(b) Any school facility belonging to the Los Angeles Unified School District that is located in the area delineated in subdivision (c) shall remain the property of the Los Angeles Unified School District. The status of an employee as an employee of the Los Angeles Unified School District shall not be affected by this act.

(c) For the purposes of this section, the following are the boundaries of the area in Eastview in Los Angeles County: begin at the southeast corner of Tract #19028 as shown on map filed in book 587, pages 83 and 84, of maps in the office of the Recorder of the County of Los Angeles, said corner being angle point in the boundary of the City of Rancho Palos Verdes as same existed on November 1, 1978; thence northerly along the

boundary of the City of Rolling Hills Estates as same existed on said date to its first intersection with the boundary of the City of Lomita as same existed on said date; thence easterly along said less mentioned boundary and following the same in all its various courses to the intersection of the northerly line of Lot 1 of Tract #3192 as shown on map filed in book 44, pages 91 to 94, inclusive, of said maps and the centerline of Western Avenue as shown on map filed in book 77, page 88, of record of surveys, in the office of said recorder; thence southerly along said centerline and continuing southerly along the centerline of Western Avenue as shown on map of Tract #24436 filed in book 653, pages 96 to 100, inclusive, of said maps to the centerline of Westmont Drive as shown on map of parcel map #5375 filed in book 63, pages 92 and 93, of parcel maps in the office of said recorder; thence continuing southerly along the centerline of Western Avenue as shown on said last mentioned map a distance of 67 feet; thence easterly at right angles from said last mentioned centerline a distance of 50 feet to the northerly terminus of that certain course having a bearing and length of N1343 feet 42 inches East along that certain 27 foot radius curve in said last mentioned boundary of the City of Rancho Palos Verdes, thence northerly along said last mentioned boundary to the point of beginning.

SEC. 175. Section 7 of Chapter 84 of the Statutes of 1999, as amended by Section 7 of Chapter 86 of the Statutes of 1999, is amended to read:

Sec. 7. For purposes of allocating one-half of the moneys appropriated by Item 9210-118-0001 of the Budget Act of 1999, all of the following apply:

(a) A county is prohibited from receiving any portion of the moneys unless the county complies with all of the following:

(1) No later than October 1, 1999, the county auditor reports to the Controller and the Director of Finance the total amount of ad valorem property tax revenue allocated from the county's Educational Revenue Augmentation Fund to school districts, community college districts, and county superintendents of schools for the 1998–99 fiscal year.

(2) The county board of supervisors adopts an ordinance or resolution that specifies each amount of ad valorem property tax revenue shifted from a local agency within the county to the county's Educational Revenue Augmentation Fund for the 1998–99 fiscal year, and the chairperson of the county board of supervisors reports those revenue shift amounts to the Controller and the Director of Finance in a manner that identifies the revenue shift amount for each local agency in the county.

(3) The county board of supervisors adopts an ordinance or resolution pursuant to which the county agrees to both of the following:

(A) The county will allocate its share of the appropriated moneys subject to this section in accordance with subdivision (c).

(B) The county will not, in connection with either paragraphs (1) or (2) of this subdivision or subdivision (c), make any claim for reimbursement of state-mandated local costs.

No later than December 1, 1999, the county board of supervisors shall transmit the ordinance or resolution adopted pursuant to this paragraph to the Director of Finance. The Controller shall promulgate guidelines for the making of reports as required by this subdivision.

(b) For each county that complies with all of the conditions set forth in subdivision (a), the Controller shall do both of the following:

(1) Perform the following calculations:

(A) Divide the amount reported by the county auditor in accordance with paragraph (1) of subdivision (a) by the total of all of the amounts reported by all county auditors in accordance with paragraph (1) of subdivision (a).

(B) Divide the amount appropriated by Item 9210-118-0001 of the Budget Act of 1999 by two.

(C) Multiply the amount determined in accordance with subparagraph (A) by the amount determined in accordance with subparagraph (B).

For purposes of performing these calculations, the Controller shall review the information submitted by the county. If, consistent with information available from any other reliable source, the Controller determines that the information may be inaccurate, the Controller may request the Director of Finance to review the amount reported by the county in accordance with paragraph (1) of subdivision (a). The Director of Finance may direct the Controller to adjust the amount reported to the Controller by the county in accordance with paragraph (1) of subdivision (a). The Controller shall inform the county of any adjustment that is so made.

(2) No later than February 1, 2000, the Controller shall, from the appropriated revenues subject to this section, allocate to the county the amount determined for that county pursuant to paragraph (1).

(c) In each county that receives revenue in accordance with subdivision (b), the county auditor shall allocate that revenue to those local agencies among the county, and cities and special districts in the county, that contributed a positive amount to the county's Educational Revenue Augmentation Fund for the 1998–99 fiscal year. The allocation share for each recipient local agency shall be determined pursuant to the following calculations:

(1) Divide the amount of revenue shifted for the 1998–99 fiscal year from the local agency to the county's Educational Revenue Augmentation Fund by the total amount of revenue shifted for the

1998–99 fiscal year to the county's Educational Revenue Augmentation Fund by all local agencies in the county contributing a positive amount to that fund.

(2) Multiply the ratio determined pursuant to paragraph (1) by the amount of revenues allocated to the county pursuant to paragraph (2) of subdivision (b).

SEC. 176. Any section of any act enacted by the Legislature during the 2000 calendar year that takes effect on or before January 1, 2001, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2000 calendar year and takes effect on or before January 1, 2001, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 136

An act to amend Section 1157 of the Evidence Code, relating to discovery.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 1157 of the Evidence Code is amended to read:

1157. (a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, or veterinary staffs in hospitals, or of a peer review body, as defined in Section 805 of the Business and Professions Code, having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for that peer review body, or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or veterinary review or acupuncturist review committees of local medical, dental, dental hygienist, podiatric, dietetic, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker,

or psychological review committees of state or local marriage and family therapist, state or local licensed clinical social worker, or state or local psychological associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, no person in attendance at a meeting of any of those committees shall be required to testify as to what transpired at that meeting.

(c) The prohibition relating to discovery or testimony does not apply to the statements made by any person in attendance at a meeting of any of those committees who is a party to an action or proceeding the subject matter of which was reviewed at that meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(d) The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, marriage and family therapist, licensed clinical social worker, veterinary, acupuncture, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if any person serves upon the committee when his or her own conduct or practice is being reviewed.

(e) The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular Session of the Legislature, or at the 1990 portion of the 1989–90 Regular Session of the Legislature, or at the 2000 portion of the 1999–2000 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

CHAPTER 137

An act to amend Section 62000.8 of the Education Code, relating to the special education program, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 62000.8 of the Education Code is amended to read:

62000.8. The special education program shall sunset on June 30, 2001.

SEC. 2. The amendment of Section 62000.8 of the Education Code made by Section 1 of this act reactivates the special education program on the date this act becomes effective.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act implements a federal law or regulation and results only in costs mandated by the federal government within the meaning of Section 17556 of the Government Code.

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.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reactivate the provisions of the currently inoperative special education program and continue to provide special education to pupils as federally required, it is necessary that this act take effect immediately.

CHAPTER 138

An act to add Section 31720.7 to the Government Code, relating to county employees' disability retirement.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 31720.7 is added to the Government Code, to read:

31720.7. (a) If a safety member, a firefighter, a county probation officer, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to

Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200), or both, or under this retirement system, under the Public Employees' Retirement System, or under a retirement system established under this chapter in another county, develops a blood-borne infectious disease, the disease so developing or manifesting itself in those cases shall be presumed to arise out of, and in the course of, employment if the member demonstrates that he or she was exposed to blood or blood products as a result of performance of job duties. The disease so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

(b) Any safety member, firefighter, county probation officer, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of a blood-borne infectious disease shall receive a service-connected disability retirement.

(c) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the 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.

(d) ''Blood-borne infectious disease,'' for purposes of this section, means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms defined as ''blood-borne pathogens'' by the Department of Industrial Relations.

(e) ''Member in active law enforcement,'' for purposes of this section, means members employed by a sheriff's office, by a police or fire department of a city, county, city and county, district, or by another public or municipal corporation or political subdivision or who are described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or who are employed by any county forestry or firefighting department or unit, excepting any of those members whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers, and includes a member engaged in active law enforcement who is not classified as a safety member.

CHAPTER 139

An act to add and repeal Part 1.86 (commencing with Section 444.20) of Division 1 of the Health and Safety Code, and to repeal Sections 1 and 2 of Chapter 47 of the Statutes of 1998, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 1 of Chapter 47 of the Statutes of 1998 is repealed.

SEC. 2. Section 2 of Chapter 47 of the Statutes of 1998 is repealed.

SEC. 3. Part 1.86 (commencing with Section 444.20) is added to the Health and Safety Code, to read:

PART 1.86. HEALTH CARE CONSUMER ASSISTANCE PROGRAMS

444.20. The Legislature finds and declares all of the following:

(a) The health care delivery system continues to undergo rapid and dramatic change. Health care services are provided by a variety of managed care structures, including health maintenance organizations (HMOs), preferred provider organizations (PPOs), and an array of hybrid models that have elements of traditional fee-for-service and indemnity systems while applying managed care's utilization management, gatekeeper, and case management techniques. As a result of these changes, many consumers are confused about how managed care works or have problems navigating the health care system.

(b) The duties of the newly established Office of Patient Advocate within the Department of Managed Care include coordinating and working with other governmental and nongovernmental patient assistance programs and health care ombudsprograms.

(c) The Center for Health Care Rights, an independent nonprofit consumer organization, has established the Health Rights Hotline (HRH) in the Sacramento area to help all health care consumers. The program's goals are to provide an independent source of information and help for health care consumers, to collect needed information regarding health care consumers' problems, and to advocate for the improvement of the health care system for all consumers. The program is independent from, but works in close collaboration with, health plans, providers, purchasers, insurance agents and brokers, consumer groups, and regulators. The program also works with the local Health Insurance

Counseling and Advocacy Program, which serves Medicare beneficiaries in target communities.

(d) The program educates consumers about their health care rights and responsibilities. It also assists consumers with questions about their health plans and with specific problems through hotline and in-person services. In addition, the program collects and analyzes information, generated both by consumers' use of the program and from other sources, that can identify the strengths and weaknesses of particular plans, provider groups, and delivery systems. The program has the potential of informing health plans, providers, purchasers, consumers, regulators, and the Legislature about how independent support can be provided to consumers in managed care.

(e) Maintaining consumer confidence is a paramount concern in the operation of the program. While one vehicle to protect these communications would be to establish attorney-client relationships with consumers served, the program is generally not designed as a ''legal'' program and it would undercut its collaborative strategy and problemsolving orientation if assistance were required to be positioned in a legal context. Furthermore, it is critical that consumers using the program are free from any retribution.

(f) The Health Consumer Alliance (HCA), a partnership of independent, nonprofit legal services agencies, includes six local health consumer assistance programs in the Counties of Fresno, Los Angeles, Orange, San Diego, San Francisco, and San Mateo. These six Health Consumer Centers help low-income consumers receive necessary health care through education, training, and advocacy, and analysis of systemic health access issues.

(g) The Health Insurance Counseling and Advocacy Programs (HICAPS), a network of community-based programs throughout the State of California, assist California consumers statewide who are 60 years of age or older, or who are Medicare beneficiaries regardless of age. These programs provide objective education, information, counseling and assistance regarding Medicare, managed care, health and long-term care related life and disability insurance, and related health care coverage plans.

444.21. (a) All communications between a representative of the program described in subdivision (c) of Section 444.20 and a subscriber or enrollee, or agent of the subscriber or enrollee, or any other recipient of health care services or any individual assisting the recipient of health care services, seeking assistance regarding a grievance or complaint, if reasonably related to the requirements of the representative's responsibilities for the program, and done in good faith, shall be privileged subject to Division 8 (commencing with Section 900) of the Evidence Code. The subscriber, enrollee, or other recipient of health care

services shall be the holder of the privilege and may refuse to disclose, and may prevent others from disclosing, a communication described in this subdivision. Any communication described in this subdivision shall be a privileged communication, which shall serve as a defense to any civil action in libel or slander against any of the persons described in this subdivision.

(b) All records and files of a program described in subdivision (c) of Section 444.20 relating to any complaint or request for assistance regarding a subscriber or enrollee, or any other recipient of health care services, and their identity, shall remain confidential, and shall not be subject to discovery, unless disclosure is authorized by the subscriber or enrollee, or any other recipient of health care services, or his or her legal representative. No disclosures shall be made outside of the program without the consent of the subscriber or enrollee, or any other recipient of health care services, that is the subject of the record or file, unless disclosure is made without disclosing the identity of that individual.

(c) Any representative of the program described in subdivision (c) of Section 444.20 shall be exempt from being required to testify in court as to any communications described in subdivision (a) except as the court may deem necessary to fulfill the purposes of the program.

(d) Nothing in this section shall affect the right of a person or entity to discover if the communication was not done in good faith pursuant to an in camera inspection of the communication by a court.

444.22. (a) The Legislature recognizes that the Health Rights Hotline, serving the greater Sacramento area, and the local Health Consumer Alliance (HCA) programs serving the Counties of Fresno, Los Angeles, Orange, San Diego, San Francisco, and San Mateo, provide needed education and assistance to individual consumers and provide the public with critical information about the health care system and how consumers can best be assisted. While most of their financial support is from private sources, the programs serve an important public interest, as do the HICAPS which statewide serve California Medicare beneficiaries and Californians 60 years of age or older.

(b) No discriminatory, disciplinary, or retaliatory action shall be taken against any health facility, health care service plan, provider, or an employee thereof, or any subscriber, enrollee, or agent of the subscriber or enrollee, or any other recipient of health care services or individual assisting the recipient of health care services, if the communication is made to a program described in subdivision (a) regarding a grievance or complaint and is intended to assist the program in carrying out its duties and responsibilities, unless the action was done maliciously or without good faith. This subdivision is not intended to allow for the unapproved release of confidential or proprietary information by an employee or

contractor, or to otherwise infringe on the rights of an employer to supervise, discipline, or terminate an employee for other reasons.

444.23. (a) Nothing in this part shall be construed to limit the authority and ability of the California Department of Aging or its contractors, or the direct service providers of the Health Insurance Counseling and Advocacy Program (HICAP), from accessing, monitoring, or reviewing case files and records developed by, or for, any components of these programs that contractually act as a HICAP provider. For those programs, all case records and files of HICAP clients are, and shall remain, the property of HICAP, subject to case file and record retention and disposal requirements established by the Department of Aging. For the purposes of this section, ''HICAP clients'' are defined as those accepted, initiated, and undertaken on behalf of consumers and clients who are 60 years of age or older, Medicare beneficiaries regardless of age, or their legal representatives.

(b) Nothing in this part shall be construed to limit the ability of the subscriber or enrollee, or any other recipient of health care services, to waive the privileges and protections provided by this section for the purpose of providing information to a regulatory agency, including, but not limited to, the Department of Corporations, the Department of Managed Care, and the Department of Insurance.

(c) Nothing in this part shall be construed to supercede the procedures set forth in Sections 1368, 1368.01, 1368.02, and 1368.03, when the programs are providing assistance to a subscriber or enrollee in connection with a complaint against a health care service plan.

(d) For purposes of this part, a health care service plan, provider, subscriber, or enrollee shall have the same meaning as set forth in Section 1345, an agent of a subscriber or enrollee shall have the same meaning as set forth in subdivision (b) of Section 1368, and a health facility shall have the same meaning as set forth in Section 1250.

444.24. This part shall remain in effect only until December 31, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2003, deletes or extends that date. Notwithstanding this date of repeal, the privileges and protections provided under this part shall continue to apply to any actions taken or materials collected after December 31, 2003, if they relate to communications or actions made on or before December 31, 2003.

SEC. 4. All references in this act to the Department of Managed Care shall be deemed to refer to the Department of Managed Health Care if legislation is enacted to change the name of the department in that manner.

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 continue to make confidentiality protections available for communications between patients and representatives of nonprofit programs to assist patients to resolve concerns about their health care plans, it is necessary that this act take effect immediately.

CHAPTER 140

An act to amend Section 5696.5 of the Welfare and Institutions Code, relating to emotionally disturbed minors.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 5696.5 of the Welfare and Institutions Code is amended to read:

5696.5. Prior to the opening of a facility, the board of directors shall establish written program standards and policies and procedures, approved by the Department of the Youth Authority that address and include, but are not limited to, the following:

(a) A staffing number and pattern that meets the special behavior, supervision, treatment, health, and educational needs of the population described in this chapter. Staff shall be qualified to provide intensive treatment and services and shall include, at a minimum:

(1) A project or clinical director, a psychiatrist or, psychologist, a social worker, a registered nurse, and a recreation or occupational therapist.

(2) A pediatrician, a dentist, and a licensed marriage and family therapist, on an as-needed basis.

(3) Educational staff in sufficient number and with the qualifications needed to meet the population served.

(4) Child care staff in sufficient numbers and with the qualifications needed to meet the special needs of the population.

(b) Programming to meet the needs of all wards admitted, including, but not limited to, all of the following:

(1) Physical examinations on admission and ongoing health care.

(2) Appropriate and closely monitored use of all behavioral management techniques.

(3) The establishment of written, individual treatment and educational plans and goals for each ward within 10 days of admission and which are updated at least quarterly.

(4) Written discharge planning that addresses each ward's continued treatment, educational, and supervision needs.

(5) Regular, written progress records regarding the care and treatment of each ward.

(6) Regular and structured treatment of all wards, including, but not limited to, individual, group and family therapy, psychological testing, medication, and occupational, or recreational therapy.

(7) Access to neurological testing and laboratory work as needed.

(8) The opportunity for regular family contact and involvement.

(9) A periodic review of the continued need for treatment within the facility.

(10) Educational programming, including special education as needed.

CHAPTER 141

An act to amend Section 1823 of the Insurance Code, relating to insurance.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 1823 of the Insurance Code is amended to read:

1823. All surety companies which execute undertakings of bail shall keep any moneys collected from agents licensed pursuant to this code as buildup or reserve funds in segregated trust accounts within the state. These accounts shall be maintained as any of the following:

(a) A Federal Deposit Insurance Corporation (FDIC) insured account.

(b) United States government bonds and treasury certificates or other obligations for which the faith of the United States is pledged for the payment of principal and interest.

(c) Repurchase agreements collateralized by securities issued by the United States government.

(d) A money market fund that limits its portfolio to those securities listed in subdivisions (a) and (b).

The accounts described in this section shall not be hypothecated or offered as collateral.

The accounts described in this section shall be used to satisfy the unfulfilled obligations of the undertakings of bail written by the agents from whom the moneys have been collected and to otherwise satisfy the unfulfilled obligations which may be owing to the surety by those agents.

CHAPTER 142

An act to amend Sections 3000 and 3000.1 of, to add and repeal Article 1.5 (commencing with Section 3005) of Chapter 8 of Title 1 of Part 3 of, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. This act shall be known and may be cited as the ''Sex Offender Containment Act.''

SEC. 2. The Legislature finds and declares the following:

(a) About half of the 7,300 adult sex offenders now under state parole supervision are considered to pose a high risk of committing new sex crimes and other violent acts.

(b) Very few of these offenders have received any treatment while in prison to curb their pattern of criminal activities, and only a fraction of them receive intensive supervision, treatment, and control after they are released into the community.

(c) Two out of three fail on parole by committing new crimes or parole violations.

(d) In light of the above concerns, the implementation of a strategy of ''containment'' of high-risk adult sex offenders is necessary.

(e) This containment strategy would include longer and more intensive supervision of high-risk adult sex offenders released on parole, and the study and creation of an intensive treatment program for high-risk offender parolees by the Department of Corrections.

(f) Containment is an approach intended to prevent a sex offender who has been released on parole from committing new crimes.

(g) The containment approach emphasizes making the safety of the community and past sex crime victims a high priority, and calls for individualized case management of sex offenders that addresses the

specific supervision, treatment, and controls needed to reintegrate them safely in the community.

(h) In summary, the benefits of the containment of sex offenders would be improved public safety, including a reduction in new crimes and parole violations by sex offenders on parole; better use of state parole resources with more intense efforts for a longer period of time to supervise high-risk offenders; more and better information for parole agents to identify the sex offenders who pose the greatest risk to the public and impose appropriate conditions of parole to reduce the risk; better use of parole outpatient clinics; and significant long-term net savings to the state and local government potentially in the tens of millions of dollars annually, due primarily to lower costs for the prison and mental hospital systems, the criminal justice system, and for assistance to crime victims.

SEC. 3. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Prison Terms to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) Any finding made pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, that a person is a sexually violent predator shall not toll, discharge, or otherwise affect that person's period of parole.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at

the expiration of a term reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (16), or (18) of subdivision (c) of Section 667.5, shall be released on parole for a period not exceeding five years, unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to Section 667.61, the period of parole shall be five years. Upon the request of the Department of Corrections, and on the grounds that the paroled inmate may pose a substantial danger to public safety, the Board of Prison Terms shall conduct a hearing to determine if the parolee shall be subject to a single additional five-year period of parole. The board shall conduct the hearing pursuant to the procedures and standards governing parole revocation. The request for parole extension shall be made no less than 180 days prior to the expiration of the initial five-year period of parole.

(4) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1) or (2), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1) and (2) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, in no case, except as provided in Section 3064, may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole, and, except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in

custody for a period longer than seven years from the date of his or her initial parole.

(6) The Department of Corrections shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections or the Board of Prison Terms may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Prison Terms shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Prison Terms, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

SEC. 4. Section 3000.1 of the Penal Code is amended to read:

3000.1. (a) In the case of any inmate sentenced under Section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(b) Notwithstanding any other provision of law, when any person referred to in subdivision (a) has been released on parole from the state prison, and has been on parole continuously for seven years in the case of any person imprisoned for first degree murder, and five years in the case of any person imprisoned for second degree murder, rape, or child molestation, since release from confinement, the board shall, within 30 days, discharge that person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and transmit a copy of it to the parolee.

(c) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter.

(d) There shall be a hearing as provided in Sections 3041.5 and 3041.7 within 12 months of the date of any revocation of parole to consider the release of the inmate on parole, and notwithstanding the provisions of paragraph (2) of subdivision (b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it

determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(e) The provisions of Section 3042 shall not apply to any hearing held pursuant to this section.

SEC. 5. Article 1.5 (commencing with Section 3005) is added to Chapter 8 of Title 1 of Part 3 of the Penal Code, to read:

Article 1.5. Intensive Parole Supervision of Sex Offenders

3005. (a) The Department of Corrections, to the maximum extent practicable and feasible, and subject to legislative appropriation of necessary funds, shall ensure, by July 1, 2001, that all parolees under active supervision and deemed to pose a high risk to the public of committing violent sex crimes shall be placed on an intensive and specialized parole supervision caseload.

(b) The Department of Corrections shall develop and, at the discretion of the director, and subject to an appropriation of the necessary funds, may implement a plan for the implementation of relapse prevention treatment programs, and the provision of other services deemed necessary by the department, in conjunction with intensive and specialized parole supervision, to reduce the recidivism of high-risk sex offenders.

(c) The Department of Corrections shall study the effects of this legislation on recidivism rates of parolees. The study shall be a two-year analysis completed by January 1, 2003, with an initial report to the Legislature on or before January 1, 2004, and a final report on or before January 1, 2006.

(d) This section shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2006, deletes or extends that date.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Thousands of adult sex offenders are being released each year to state parole supervision who are deemed to pose a high risk of committing new sex crimes and other violent acts. Very few of these offenders are receiving adequate parole supervision, few receive any treatment while in prison to curb their pattern of criminal activities, and only a fraction receive intensive supervision, treatment, and control after they are

released into the community. In order to address these significant public safety concerns, it is essential that this act take effect immediately.

CHAPTER 143

An act to add Chapter 3.5 (commencing with Section 12400) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. It is the intent of the Legislature that the same level of benefits that are made available under the State Supplementary Program (SSP) for the Aged, Blind, and Disabled to those veterans of World War II who were receiving SSP benefits on December 14, 1999, be provided as a California veterans benefit to those courageous soldiers who were members of the Government of the Commonwealth of the Philippines military forces who were in the service of the United States on July 31, 1941, or thereafter.

SEC. 2. The Legislature finds and declares the following:

(a) Included among those military forces described in Section 1 of this act were the organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief of the Southwest Pacific Area or other competent authority in the Army of the United States.

(b) It is in the public interest for the State of California to recognize those courageous soldiers who fought and defended American interests during World War II and who are currently receiving SSP benefits as of December 14, 1999, by permitting them to return to their homeland to spend their last days without a complete forfeiture of benefits.

SEC. 3. Chapter 3.5 (commencing with Section 12400) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 3.5. BENEFITS FOR CALIFORNIA VETERANS

12400. (a) Notwithstanding any other provision of law, any person receiving benefits under Section 12200 on December 14, 1999, and who meets the requirements of subdivision (b) shall be eligible to receive benefits under this chapter although he or she does not retain a residence in the state and returns to the Republic of the Philippines, if he or she

maintains a permanent residence in the Republic of the Philippines without any lapse of his or her presence in the Republic of the Philippines for a period of more than 30 consecutive days in any period of 12 months and without a lapse of his or her presence in the Republic of the Philippines for two periods of 30 consecutive days during a period of three years.

(b) A person subject to subdivision (a) shall be eligible to receive benefits pursuant to this chapter if he or she was receiving benefits pursuant to subdivision (a), (b), (c), or (d) of Section 12200 on December 14, 1999, and meets both the following requirements:

(1) He or she is a veteran of World War II.

(2) He or she was a member of the Government of the Commonwealth of the Philippines military forces who was in the service of the United States on July 31, 1941, or thereafter.

(c) Benefits under this chapter shall be calculated the same as those benefits paid under subdivision (a), (b), (c), or (d) of Section 12200, as appropriate.

(d) Benefits paid under this chapter shall be in lieu of benefits paid under Section 12200 or any other provision of Article 1 (commencing with Section 12000) of Chapter 3 for the period for which the benefits are paid.

(e) Benefits shall be paid under this chapter for any period during which the recipient is eligible to receive benefits under Title 8 of the federal Social Security Act as a result of the application of federal Public Law 106-169, subject to any limitations imposed by this section.

(f) This section shall apply only to any individual who returns to the Republic of the Philippines for the period during which the individual establishes and maintains a residence in the Republic of the Philippines and shall cease to apply to any individual who, after receiving benefits pursuant to this section, leaves the Republic of the Philippines and establishes a residence outside the Republic of the Philippines.

(g) To assist the state in administering this chapter, the Secretary of the California Health and Human Services Agency shall seek an agreement with the federal government to administer this chapter in conjunction with benefits under Title 8 of the federal Social Security Act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to timely implement this act in a manner that would result in reduced implementation costs, it is necessary that this act take effect immediately.

CHAPTER 144

An act to amend Section 7715 of the Fish and Game Code, to add and repeal Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code, to amend Sections 25404, 25404.1, 25404.3, 25404.4, 25404.5, and 25404.6 of, to add Sections 901 and 39619.6 to, to add Article 8.5 (commencing with Section 25395.20) to Chapter 6.8 of Division 20 of, and to add and repeal Section 25299.50.1 of, the Health and Safety Code, and to add Sections 13177.5 and 13177.6 to the Water Code, relating to resources and environmental protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

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

SECTION 1. Section 7715 of the Fish and Game Code is amended to read:

7715. (a) If the Director of Environmental Health Hazard Assessment, in consultation with the State Director of Health Services, determines, based on thorough and adequate scientific evidence, that any species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances, the Director of Fish and Game may order the closure of any waters or otherwise restrict the taking under a commercial fishing license in state waters of that species. Any such closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any closure or restriction pursuant to subdivision (a) shall become inoperative when the Director of Environmental Health Hazard Assessment, in consultation with the State Director of Health Services, determines that a health risk no longer exists. Upon making such a determination, the Director of Environmental Health Hazard Assessment shall notify the Director of Fish and Game and shall request that those waters be reopened for commercial fishing.

SEC. 1.5. Part 3 (commencing with Section 1101) is added to Division 1 of the Food and Agricultural Code, to read:

PART 3. CENTRAL VALLEY AGRICULTURAL BIOMASS-TO-ENERGY INCENTIVE GRANT PROGRAM

1101. This part shall be known, and may be cited, as the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program.

1102. The Legislature finds and declares all of the following:

(a) California agriculture produces substantial quantities of residual materials from farming practices, including orchard and vineyard pruning and removals. These residual materials are disposed of primarily by open field burning, resulting in air emissions that would be substantially reduced if the residual materials instead were converted into energy at a biomass-to-energy facility.

(b) California's longstanding energy policy encourages a diversity of electrical power generation sources, including biomass-to-energy and renewables. Existing biomass-to-energy powerplants provide an important alternative use for agricultural residue materials as well as electrical power for the people of California.

(c) California seeks to improve environmental quality and sustain our natural resources, in part through various strategies and programs that reduce agricultural, rangeland, and forest burning, and programs that foster higher value uses for materials that otherwise would be managed as wastes. Air districts currently administer air quality permit and emission requirement provisions, under state law, for various types of project facilities, including those using agricultural residue products as biomass fuel to produce electrical energy.

(d) Additional incentives are necessary to reduce open field burning of agricultural residual materials that degrade air quality, to produce electrical power from a renewable source, and to foster and sustain the biomass industry, including collection, hauling, and processing infrastructure, and, therefore, the Legislature establishes the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program.

(e) The Legislature further finds and declares that providing the grants set forth under this program is in the public interest, serves a public purpose, and that providing incentives to facilities will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(f) It is also the intent of the Legislature to provide funding of thirty million dollars ($30,000,000) over the three-year duration of the grant program.

1103. For the purposes of this part, the following definitions apply:

(a) ''Agency'' means the Trade and Commerce Agency.

(b) ''Air district'' means an air pollution control district or an air quality management district established or continued in existence

pursuant to Part 3 (commencing with Section 40000) of the Health and Safety Code.

(c) ''Central Valley'' means the Sacramento Valley Basin and the San Joaquin Valley Basin, as designated by the State Air Resources Board pursuant to Section 39606 of the Health and Safety Code.

(d) ''Facility'' means any California site that as of July 1, 2000, converted, and continues to convert, qualified agricultural biomass from the Central Valley to energy and the conversion results in lower oxides of nitrogen (NO_x) emissions than would otherwise be produced if burned in the open field during the ozone season in the Central Valley, as determined by the air district.

(e) ''Grant'' means an award of funds by the agency to an air district that shall, in turn, grant incentive payments to a facility after deducting the air district's administrative fee as provided in Section 1104.

(f) ''Incentive payment'' means a payment by an air district to facilities for qualified agricultural biomass to be received and converted into energy after July 1, 2000. This payment shall be in the amount of ten dollars ($10) for each ton of qualified agricultural biomass received for conversion to energy.

(g) ''Qualified agricultural biomass'' means agricultural residues, excluding urban and forest wood products, that include either of the following:

(1) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(2) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

1104. (a) An air district may apply to the agency to receive one or more grants to provide an incentive payment to one or more facilities located within its jurisdiction. The air district shall complete a separate application for each participating facility that shall consist of all of the following information:

(1) The name, address, contact person, and any other information necessary for the agency to communicate with the air district.

(2) The name, address, contact person, and any other information necessary for the agency to identify the facility.

(3) A resolution adopted by the air district containing both of the following findings:

(A) That the facility listed in the application meets the program definition of facility.

(B) That the annual estimated amount requested by the facility is based upon ten dollars ($10) per ton for the quantity of qualified agricultural biomass that facility projects it will receive for conversion to energy during that fiscal year. The projection shall be based upon the capacity of the facility, the tonnage historically converted by the facility,

and the tonnage of qualified agricultural biomass available within 50 miles of the facility.

(4) A summary report of the amount of actual biomass emissions of the facility, based on annual source tests, and the amount of emission reductions estimated to be acquired under the application. The estimated emission reductions for NO_X shall be expressed as net pounds per ton.

(5) The capacity of the facility.

(6) The tonnage of biomass converted into energy by the facility for the five years prior to the date of the application.

(7) An estimate of the tonnage of qualified agricultural biomass existing within 50 miles of the facility.

(b) The agency shall schedule one or more application deadlines for awarding one-year grants to air districts. Procedures, forms, and guidelines established for the program, including the application process, are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The agency may request additional information from an air district solely to clarify information contained in the application or to correct clerical errors contained in the application.

(c) An air district receiving a grant from the agency pursuant to this part may receive 5 percent of the grant award for administering the biomass-to-energy production incentive payment and for performing related recordkeeping activities.

(d) The agency shall review all applications received by the deadline to determine that they are complete and eligible. All complete and eligible applications shall be reviewed by the review panel established pursuant to Section 1105. The review panel shall determine whether the findings by the air districts required by paragraph (3) of subdivision (a) are reasonable. If the panel determines that the findings are not reasonable, it may either determine the application to be ineligible, if it determines that the facility is not eligible under that part, or reduce the amount of funding requested, if it determines that estimated tonnage is inaccurate. The determination of the review panel shall be nonappealable.

(e) The agency shall tally the aggregate amount requested from all complete and eligible applications received by the application deadline following review, and possible modification by the review panel. If the amount exceeds the funds available for that application deadline, the amount awarded for each application shall be a percentage of the total funds available. To determine the percentage, the numerator shall be the grant funds requested by the air district after any modifications by the review panel, and the denominator shall be the aggregate amount requested from all complete and eligible applications after any modifications by the review panel. The agency shall enter into a grant

agreement or grant agreements with each air district receiving a grant or grants.

(f) Facilities receiving incentive payments pursuant to this part are not eligible to receive emission reduction credits. Generators or suppliers of qualified agricultural biomass may not receive emission reduction credits for any qualified agricultural biomass for which a facility has received an incentive payment.

(g) On and after January 1, 2002, any energy produced by a facility that receives an incentive payment is not eligible for any other production subsidy, rebate, buydown, or any incentive funded through electricity surcharges.

1105. The agency shall establish a multiagency review panel. The panel shall consist of representatives from any or all of the following entities: the Department of Food and Agriculture, the Resources Agency, the California Environmental Protection Agency, the State Air Resources Board, the State Energy Resources Conservation and Development Commission, the California Integrated Waste Management Board, and any other state agency deemed appropriate by the agency.

1106. Following the award of a grant, the agency shall enter into a grant agreement with the air district. The agency may advance grant funds to the air district. No additional amount shall be provided to an air district until the air district documents that the facility is converting the requisite tons of qualified agricultural biomass to energy. The documentation shall consist of the existing reporting and recordkeeping system, as set forth in subdivisions (b) and (c) of Section 41605.5 of the Health and Safety Code.

1107. The multiagency review panel established pursuant to Section 1105 shall provide a report to the Legislature on the results and effectiveness of the Central Valley Agricultural Biomass-to-Energy Incentive Program by January 1, 2003.

1108. This part shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 2. Section 901 is added to the Health and Safety Code, to read:

901. (a) As used in this section:

(1) ''Center'' means the Children's Environmental Health Center established pursuant to Section 900.

(2) ''Office'' means the Office of Environmental Health Hazard Assessment.

(b) On or before June 30, 2001, the office shall review cancer risk assessment guidelines for use by the office and the other entities within the California Environmental Protection Agency to establish cancer

potency values or numerical health guidance values that adequately address carcinogenic exposures to the fetus, infants, and children.

(c) The evaluation and update required by subdivision (b) shall include a review of existing state and federal cancer risk guidelines, as well as new information on carcinogenesis, and shall consider the extent to which those guidelines address risks from exposures occurring early in life.

(d) The evaluation and update required by subdivision (b) shall also include, but not be limited to, all of the following:

(1) The development of criteria for identifying carcinogens likely to have a greater impact if exposures occur early in life.

(2) The assessment of methodologies used in existing guidelines to address early-in-life exposures.

(3) The construction of a data base of animal studies to evaluate increases in risks from short-term early-in-life exposures.

(e) On or before June 30, 2004, the office shall finalize and publish children's cancer guidelines that shall be protective of children's health. These guidelines shall be revised and updated as needed by the office.

(f) (1) On or before December 31, 2002, the office shall publish a guidance document, for use by the Department of Toxic Substances Control and other state and local environmental and public health agencies, to assess exposures and health risks at existing and proposed schoolsites. The guidance document shall include, but not be limited to, all of the following:

(A) Appropriate child-specific routes of exposure unique to the school environment, in addition to those in existing exposure assessment models.

(B) Appropriate available child-specific numerical health effects guidance values, and plans for the development of additional child-specific numerical health effects guidance values.

(C) The identification of uncertainties in the risk assessment guidance, and those actions that should be taken to address those uncertainties.

(2) The office shall consult with the Department of Toxic Substances Control and the State Department of Education in the preparation of the guidance document required by paragraph (1) in order to ensure that it provides the information necessary for these two agencies to meet the requirements of Sections 17210.1 and 17213.1 of the Education Code.

(g) On or before January 1, 2002, the office, in consultation with the appropriate entities within the California Environmental Protection Agency, shall identify those chemical contaminants commonly found at schoolsites and determined by the office to be of greatest concern based on criteria that identify child-specific exposures and child-specific physiological sensitivities. On or before December 31, 2002, and

annually thereafter, the office shall publish and make available to the public and to other state and local environmental and public health agencies and school districts, numerical health guidance values for five of those chemical contaminants identified pursuant to this subdivision until the contaminants identified have been exhausted.

(h) On and after January 1, 2002, and biannually thereafter, the center shall report to the Legislature and the Governor on the implementation of this section as part of the report required by subdivision (d) of Section 900. The report shall include, but not be limited to, information on revisions or modifications made by the office and other entities within the California Environmental Protection Agency to cancer potency values and other numerical health guidance values in order to be protective of children's health. The report shall also describe the use of the revised health guidance values in the programs and activities of the office and the other boards and departments within the California Environmental Protection Agency.

(i) Nothing in this section shall relieve any entity within the California Environmental Protection Agency of complying with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 Title 2 of the Government Code, to the extent that chapter is applicable to the entity on or before the effective date of this section, as added during the 2000 portion of the 1999–2000 Regular Session, or Section 57004 of the Health and Safety Code.

SEC. 3. Section 25299.50.1 is added to the Health and Safety Code, to read:

25299.50.1. (a) For purposes of this section, ''fire safety agency'' means a city fire department, county fire department, city and county fire department, fire protection district, a joint powers authority formed for the purpose of providing fire protection services, or any other local agency that normally provides fire protection services.

(b) The Fire Safety Subaccount is hereby created in the Underground Storage Tank Cleanup Fund, for expenditure by the board to pay a claim described in paragraph (4) of subdivision (b) of Section 25299.52 that was filed before January 1, 2000, by a fire safety agency. Except as provided in subdivision (d), the board shall pay such a claim filed by a fire safety agency only from funds appropriated from the Fire Safety Subaccount.

(c) The sum of five million dollars ($5,000,000) of the moneys in the fund derived from the sources described in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 25299.50 is hereby transferred from the fund to the Fire Safety Subaccount, and appropriated therefrom to the board, for expenditure pursuant to this section for a claim filed by a fire safety agency specified in subdivision (b).

(d) The unpaid amount of any claim filed by a fire safety agency specified in subdivision (b), for which a closure letter has not been issued pursuant to subdivision (h) of Section 25299.37 on or before January 1, 2006, shall not be payable from the Fire Safety Subaccount but shall revert to the priority ranking for claims specified in Section 25299.52.

(e) The payment of claims pursuant to this section shall not affect the board's payment of claims filed pursuant to paragraph (1), (2), or (3) of subdivision (b) of Section 25299.52.

(f) Any funds remaining in the Fire Safety Subaccount on January 1, 2006, shall be transferred to the fund.

(g) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 4. Article 8.5 (commencing with Section 25395.20) is added to Division 20 of the Health and Safety Code, to read:

Article 8.5. Cleanup Loans and Environmental Assistance to Neighborhoods

25395.20. The Cleanup Loans and Environmental Assistance to Neighborhoods Account is hereby established in the General Fund.

SEC. 5. Section 25404 of the Health and Safety Code is amended to read:

25404. (a) For purposes of this chapter, the following terms shall have the following meaning:

(1) (A) ''Certified Unified Program Agency'' or ''CUPA'' means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) ''Participating Agency'' or ''PA'' means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) ''Unified Program Agency'' or ''UPA'' means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the

secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) ''Department'' means the Department of Toxic Substances Control.

(3) ''Secretary'' means the Secretary for Environmental Protection.

(4) ''Unified program facility'' means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c) of Section 25404.

(5) ''Unified program facility permit'' means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and any permit or authorization requirements under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the Uniform Fire Code or the Uniform Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Director of the Office of Emergency Services, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements, and shall, to the maximum extent feasible within statutory constraints, ensure the coordination and consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to hazardous waste generators, and persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department.

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order

under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

(i) A corrective action order issued by the department pursuant to Section 25187.

(ii) An order issued by the department pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iii) A remedial action plan approved pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirement of subdivision (c) of Section 25270.5 for owners and operators of aboveground storage tanks to prepare a spill prevention control and countermeasure plan.

(3) The requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks, except for the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1, and the requirements of any underground storage tank ordinance adopted by a city or county.

(4) The requirements of Article 1 (commencing with Section 25501) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of subdivisions (b) and (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant

to Section 13143.9 of the Health and Safety Code, concerning hazardous material management plans and inventories.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c) of Section 25404. Those standards shall incorporate any standard developed under Section 25503.3.

(2) The secretary shall establish an electronic geographic information management system capable of receiving all data collected by the unified program agencies pursuant to paragraph (1). The secretary shall make all nonconfidential data available on the Internet.

SEC. 6. Section 25404.1 of the Health and Safety Code is amended to read:

25404.1. (a) (1) All aspects of the unified program related to the adoption and interpretation of statewide standards and requirements shall be the responsibility of the state agency which is charged with that responsibility under existing law. For underground storage tanks, that agency shall be the State Water Resources Control Board. The California regional water quality control boards shall have responsibility for the issuance of variances pursuant to subdivision (b) of Section 25299.4. The Department of Toxic Substances Control shall have the sole responsibility for the issuances of variances from the requirements of Chapter 6.5 (commencing with Section 25100) and the regulations adopted pursuant thereto, for the determination of whether or not a waste is hazardous or nonhazardous, for the determination of whether or not a person is eligible to be deemed to be operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, and for the suspension and revocation of permits-by-rule, conditional authorizations, and conditional exemptions.

(2) Except as provided in paragraphs (1) and (3), those aspects of the unified program related to the application of statewide standards to particular facilities, including the issuance of unified program facility permits, the review of reports and plans, environmental assessment, compliance and correction, and the enforcement of those standards and requirements against particular facilities, shall be the responsibility of the unified program agencies.

(3) (A) Except in those jurisdictions for which the UPA has been determined by the department, in accordance with regulations adopted pursuant to subparagraph (C), to be qualified to implement the environmental assessment and removal and remediation corrective action aspects of the unified program, the department shall have sole responsibility and authority under the unified program for all of the following:

(i) Implementing and enforcing the requirements of paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25200.10 and 25200.14, and the regulations adopted by the department to implement those sections. As a pilot program in up to 10 counties, pending the adoption and implementation of regulations pursuant to subparagraph (C), the department may delegate to the CUPA, through a delegation agreement, responsibility and authority for implementing and enforcing the requirements of Section 25200.14.

(ii) The issuance of orders under Section 25187 requiring removal or remedial action.

(iii) The issuance of orders under Section 25187.1.

(B) Notwithstanding subparagraph (A), a UPA may issue an order under Section 25187 specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of the requirements of Chapter 6.5 (commencing with Section 25100) listed in paragraph (1) of subdivision (c) of Section 25404, or the requirements of any permit, rule, regulation, standard or requirement issued or adopted pursuant to the requirements of Chapter 6.5 (commencing with Section 25100) listed in paragraph (1) of subdivision (c) of Section 25404, if one of the following applies:

(i) The order does not require removal or remedial action.

(ii) The only removal or remedial actions required by the order are those actions determined to be necessary to address an imminent and substantial endangerment based upon a finding by the UPA pursuant to subdivision (f) of Section 25187.

(C) The department shall adopt emergency regulations specifying the criteria and procedures for implementing paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25200.10 and 25200.14, including criteria and procedures for determining whether or not a unified program agency is qualified to implement the environmental assessment and removal and remediation corrective action portions of the unified program under paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25187, 25187.1, 25200.10, and 25200.14. The criteria for determining whether a unified program agency is qualified shall, at a minimum, include consideration of the following factors:

(i) Adequacy of the technical expertise possessed by the unified program agency.

(ii) Adequacy of staff resources.

(iii) Adequacy of budget resources and funding mechanisms.

(iv) Training requirements.

(v) Past performance in implementing and enforcing requirements related to environmental assessments, and removal and remediation corrective actions.

(vi) Recordkeeping and accounting systems.

(D) The regulations adopted by the department pursuant to subparagraph (C) shall include provisions to ensure coordinated and consistent application of paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25187, 25187.1, 25200.10, and 25200.14, when both the department and the unified program agency are, or will be, implementing and enforcing the requirements of one or more of these sections at the same facility.

(E) For purposes of subparagraph (D), ''facility'' means the entire site that is under the control of the owner or operator.

(F) If the department is designated as a unified program agency, the department is deemed qualified to implement all of the following:

(i) The environmental assessment, removal and remedial action, and corrective action aspects of the unified program.

(ii) Paragraph (3) of subdivision (c) of Section 25300.3, Sections 25200.10, 25200.14, 25187, and 25287.1, and the regulations adopted by the department to implement those provisions.

(b) (1) On or before January 1, 1996, each county shall apply to the secretary to be certified as a unified program agency to implement the unified program within the unincorporated area of the county and within each city in the county, in which area or city, as of January 1, 1996, the city or other local agency has not applied to be the certified unified program agency.

(2) (A) Any city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or which has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency to implement the unified program within the jurisdictional boundaries of the city or local agency.

(B) A city or other local agency which, as of December 31, 1995, has not been designated as an administering agency pursuant to Section 25502, or which has not assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency within the jurisdictional boundaries of the city or local agency if it enters into an agreement with the county to become the certified unified program agency within those boundaries. A county

shall not refuse to enter into an agreement unless it specifies in writing its reasons for failing to enter into the agreement. However, if the city does not enter into the agreement with the county, within 30 days of receiving a county's reasons for failing to enter into agreement, a city may request that the secretary allow it to apply to be a certified unified program agency and the secretary may, in his or her discretion, approve the request.

(3) A city, county, or other local agency may propose, in its application for certification to the secretary, to allow other public agencies to implement certain elements of the unified program, but the secretary shall accept that proposal only if the secretary makes the findings specified in subdivision (d) of Section 25404.3.

(4) If a city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, requests that the county propose in its application for certification to the secretary that the city or local agency implement, within the jurisdictional boundaries of the city or local agency, those elements of the unified program which, as of December 31, 1995, the city or local agency has authority to administer, the county shall grant that request. If such an agency is subsequently removed or withdraws from the unified program, the agency shall not act as an administering agency under Section 25502 or act as a local agency pursuant to Chapter 6.7 (commencing with Section 25280), except as provided in subdivision (c) of Section 25283.

SEC. 7. Section 25404.3 of the Health and Safety Code is amended to read:

25404.3. (a) The secretary shall, within a reasonable time after submission of a complete application for certification pursuant to Section 25404.2, and regulations adopted pursuant to that section, but not to exceed 180 days, review the application, and, after holding a public hearing, determine if the application should be approved. Before disapproving an application for certification, the secretary shall submit to the applicant agency a notification of the secretary's intent to disapprove the application, in which the secretary shall specify the reasons why the applicant agency does not have the capability or the resources to fully implement and enforce the unified program in a manner that is consistent with the regulations implementing the unified program adopted by the secretary pursuant to this chapter. The secretary shall provide the applicant agency with a reasonable time to respond to the reasons specified in the notification and to correct deficiencies in its application. The applicant agency may request a second public hearing, at which the secretary shall hear the applicant agency's response to the reasons specified in the notification.

(b) In determining whether an applicant agency should be certified, the secretary, after receiving comments from the director, the Director of the Office of Emergency Services, the State Fire Marshal, and the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, shall consider at least all of the following factors:

(1) Adequacy of the technical expertise possessed by each unified program agency which will be implementing each element of the unified program, including, but not limited to, whether the agency responsible for implementing and enforcing the requirements of Chapter 6.5 (commencing with Section 25100) satisfies the requirements of Section 66272.44 of Title 22 of the California Code of Regulations.

(2) Adequacy of staff resources.

(3) Adequacy of budget resources and funding mechanisms.

(4) Training requirements.

(5) Past performance in implementing and enforcing requirements related to the handling of hazardous materials and hazardous waste.

(6) Recordkeeping and cost accounting systems.

(7) Compliance with the criteria in Section 66272.10 of Title 22 of the California Code of Regulations, except for the requirement of paragraph (2) of subdivision (b) of that section related to countywide jurisdiction.

(c) (1) In making the determination of whether or not to certify a particular applicant agency as a certified unified program agency, the secretary shall consider the applications of every other applicant agency applying to be a certified unified program agency within the same county, in order to determine the impact of each certification decision on the county. If the secretary identifies that there may be adverse impacts on the county if any particular agency in a county is certified, the secretary shall work cooperatively with each affected agency to address the secretary's concerns.

(2) The secretary shall not certify an agency to be a certified unified program agency unless the secretary finds both of the following:

(A) The unified program will be implemented in a coordinated and consistent manner throughout the entire county in which the applicant agency is located.

(B) The administration of the unified program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with regard to the administration of the provisions specified in subdivision (c) of Section 25404.

(d) (1) The secretary shall not certify an applicant agency which proposes to allow participating agencies to implement certain elements of the unified program unless the secretary makes all of the following findings:

(A) The applicant agency has adequate authority, and has in place adequate systems, protocols, and agreements, to ensure that the actions of the other agencies proposed to implement certain elements of the unified program are fully coordinated and consistent with each other and with those of the applicant agency, and to ensure full compliance with the regulations implementing the unified program adopted by the secretary pursuant to this chapter.

(B) An agreement between the applicant and other agencies proposed to implement any elements of the unified program contains procedures for removing any agencies proposed and engaged to implement any element of the unified program. The procedures in the agreement shall include, at a minimum, provisions for providing notice, stating causes, taking public comment, making appeals, and resolving disputes.

(C) The other agencies proposed to implement certain elements of the unified program have the capability and resources to implement those elements, taking into account the factors designated in subdivision (b).

(D) If any of the other agencies proposed to implement certain elements of the unified program are not directly responsible to the same governing body as the applicant agency, the applicant agency maintains an agreement with any agency which ensures that the requirements of Section 25404.2 will be fully implemented.

(E) If the applicant agency proposes that any agency other than itself will be responsible for implementing aspects of the single fee system imposed pursuant to Section 25404.5, the applicant agency maintains an agreement with that agency which ensures that the fee system is implemented in a fully consistent and coordinated manner, and which ensures that each participating agency receives the amount which it determines to constitute its necessary and reasonable costs of implementing the element or elements of the unified program which it is responsible for implementing.

(2) After the secretary has certified an applicant agency pursuant to this subdivision, that agency shall obtain the approval of the secretary before removing and replacing a participating agency that is implementing an element of the unified program.

(3) Any state agency, including, but not limited to, the State Department of Health Services, acting as a participating agency, may contract with a unified program agency to implement or enforce the unified program.

(e) Until a city's or county's application for certification to implement the unified program is acted upon by the secretary, the roles, responsibilities, and authority for implementing the programs identified in subdivision (c) of Section 25404 which existed in that city or county pursuant to statutory authorization as of December 31, 1993, shall remain in effect.

(f) (1) Except as provided in subparagraph (C) of paragraph (2), if no local agency has been certified by January 1, 1997, to implement the unified program within a city, the secretary shall designate either the county in which the city is located or another agency pursuant to subparagraph (A) of paragraph (2) as the unified program agency.

(2) (A) Except as provided in subparagraph (C), if no local agency has been certified by January 1, 2001, to implement the unified program within the unincorporated or an incorporated area of a county, the secretary shall determine how the unified program shall be implemented in the unincorporated area of the county, and in any city in which there is no agency certified to implement the unified program. In such an instance, the secretary shall work in consultation with the county and cities to determine which state or local agency or combination of state and local agencies should implement the unified program, and shall determine which state or local agency shall be designated as the certified unified program agency.

(B) The secretary shall determine the method by which the unified program shall be implemented throughout the county and may select any combination of the following implementation methods:

(i) The certification of a state or local agency as a certified unified program agency.

(ii) The certification of an agency from another county as the certified unified program agency.

(iii) The certification of a joint powers agency as the certified unified program agency.

(C) Notwithstanding paragraph (1) and subparagraphs (A) and (B), if the cities of Sunnyvale, Anaheim, and Santa Ana prevail in litigation filed in 1997 against the secretary, and, to the extent the secretary determines that these three cities meet the requirements for certification, the secretary may certify these cities as certified unified program agencies.

(g) (1) If a certified unified program agency wishes to withdraw from its obligations to implement the unified program and is a city or a joint powers agency implementing the unified program within a city, the agency may withdraw after providing 180 days' notice to the secretary and to the county within which the city is located, or to the joint powers agency with which the county has an agreement to implement the unified program.

(2) Whenever a certified unified program agency withdraws from its obligations to implement the unified program, or the secretary withdraws an agency's certification pursuant to Section 25404.4, the successor certified unified program agency shall be determined in accordance with subdivision (f).

SEC. 8. Section 25404.4 of the Health and Safety Code is amended to read:

25404.4. (a) (1) The secretary shall periodically review the ability of each certified unified program agency to carry out this chapter. In conducting this review, the secretary shall review both the elements of each CUPA's enforcement program and the efficacy of the program in ensuring compliance with the unified program's requirements. If a certified unified program agency fails to meet its obligations to adequately implement the unified program, the secretary may withdraw the certified unified program agency's certification, or may enter into a program improvement agreement with the certified unified program agency to make the necessary improvements. A certified unified program agency with which the secretary has entered into a program improvement agreement may continue to implement the unified program while the program improvement agreement is in effect and the certified unified program agency is in compliance with the agreement. If the secretary finds that a CUPA has not met the enforcement performance standards adopted pursuant to Section 25404.6 and the secretary enters into a program improvement agreement with the CUPA, the agreement shall make the improvement of enforcement the highest priority.

(2) Before withdrawing a certified unified program agency's certification, the secretary shall submit to the certified unified program agency a notification of the secretary's intent to withdraw certification, in which the secretary shall specify the reasons why the certified unified program agency has failed to meet its obligations to adequately implement the unified program. The secretary shall provide the certified unified program agency with a reasonable time to respond to the reasons specified in the notification and to correct the deficiencies specified in the notification. The certified unified program agency may request a public hearing, at which the secretary shall hear the agency's response to the reasons specified in the notification.

(b) (1) If the secretary finds that a certified unified program agency has failed to adequately enforce the requirements of the unified program with respect to a particular facility, the secretary may direct the appropriate state agency to take any necessary actions and to issue necessary orders to the facility.

(2) If the secretary finds that the failure to adequately enforce the requirements of the unified program may result in an imminent and substantial endangerment to the environment or to the public health and safety, the secretary shall direct the appropriate state agency to take any necessary actions and to issue the necessary orders to the facility.

(3) This chapter does not prevent any appropriate state agency from issuing an order or taking any other action pursuant to state law.

SEC. 9. Section 25404.5 of the Health and Safety Code is amended to read:

25404.5. (a) (1) Each certified unified program agency shall institute a single fee system, which shall replace the fees levied pursuant to Sections 25201.14 and 25205.14, except for transportable treatment units permitted under Section 25200.2, and which shall also replace any fees levied by a local agency pursuant to Sections 25143.10, 25287, 25513, and 25535.2, or any other fee levied by a local agency specifically to fund the implementation of the provisions specified in subdivision (c) of Section 25404. Notwithstanding Sections 25143.10, 25201.14, 25205.14, 25287, 25513, and 25535.2, a person who complies with the certified unified program agency's ''single fee system'' fee shall not be required to pay any fee levied pursuant to those sections, except for transportable treatment units permitted under Section 25200.2.

(2) (A) The governing body of the local certified unified program agency shall establish the amount to be paid by each person regulated by the unified program under the single fee system at a level sufficient to pay the necessary and reasonable costs incurred by the certified unified program agency and by any participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3.

(B) The secretary shall establish the amount to be paid when the unified program agency is a state agency.

(3) The fee system may also be designed to recover the necessary and reasonable costs incurred by the certified unified program agency, or a participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3, in administering provisions other than those specified in subdivision (c) of Section 25404, if the implementation and enforcement of those provisions has been incorporated as part of the unified program by the certified unified program agency pursuant to subdivision (b) of Section 25404.2, and if the single fee system replaces any fees levied as of January 1, 1994, to fund the implementation of those additional provisions.

(4) The amount to be paid by a person regulated by the unified program may be adjusted to account for the differing costs of administering the unified program with respect to that person's regulated activities.

(b) (1) Except as provided in subdivision (d), the single fee system instituted by each certified unified program agency shall include an assessment on each person regulated by the unified program of a surcharge, the amount of which shall be determined by the secretary annually, to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under this chapter. The

secretary may adjust the amount of the surcharge to be collected by different certified unified program agencies to reflect the different costs incurred by the state agencies in supervising the implementation of the unified program in different jurisdictions, and in supervising the implementation of the unified program in those jurisdictions for which the secretary has waived the assessment of the surcharge pursuant to subdivision (d). The certified unified program agency may itemize the amount of the surcharge on any bill, invoice, or return that the agency sends to a person regulated by the unified program. Each certified unified program agency shall transmit all surcharge revenues collected to the secretary on a quarterly basis. The surcharge shall be deposited in the Unified Program Account, which is hereby created in the General Fund and which may be expended, upon appropriation by the Legislature, by state agencies for the purposes of implementing this chapter.

(2) On or before January 10, 2001, the secretary shall report to the Legislature on whether the number of persons subject to regulation by the unified program in any county is insufficient to support the reasonable and necessary cost of operating the unified program using only the revenues from the fee. The secretary's report shall consider whether the surcharge required by subdivision (a) should include an assessment to be used to supplement the funding of unified program agencies that have a limited number of entities regulated under the unified program.

(c) Each certified unified program agency and the secretary shall, before the institution of the single fee system and the assessment of the surcharge, implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. The fee accountability programs shall include those elements of the requirements of the plan adopted pursuant to Section 25206 that the secretary determines are appropriate.

(d) The secretary may waive the requirement for a county to assess a surcharge pursuant to subdivision (b), if both of the following conditions apply:

(1) The county meets all of the following conditions:

(A) The county submits an application to the secretary for certification on or before January 1, 1996, that incorporates all of the requirements of this chapter, and includes the county's request for a waiver of the surcharge, and contains documentation that demonstrates, to the satisfaction of the secretary, both of the following:

(i) That the assessment of the surcharge will impose a significant economic burden on most businesses within the county.

(ii) That the combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(B) The application for certification, including the information required by subparagraph (A), is determined by the secretary to be complete, on or before April 30, 1996. The secretary, for good cause, may grant an extension of that deadline of up to 90 days.

(C) The county is certified by the secretary on or before December 31, 1996.

(D) On or before January 1, 1994, the county completed the consolidation of the administration of the hazardous waste generator program, the hazardous materials release response plans and inventories program, and the underground storage tank program, referenced in paragraphs (1), (3), and (4) of subdivision (c) of Section 25404, into a single program within the county's jurisdiction.

(E) The county demonstrates that it will consolidate the administration of all programs specified in subdivision (c) of Section 25404, and that it will also consolidate the administration of at least one additional program that regulates hazardous waste, hazardous substances, or hazardous materials, as specified in subdivision (d) of Section 25404.2, other than the programs specified in subdivision (c) of Section 25404, into a single program to be administered by a single agency in the county's jurisdiction at the time that the county's certification by the secretary becomes effective.

(2) The secretary makes all of the following findings:

(A) The county meets all of the criteria specified in paragraph (1).

(B) The assessment of the surcharge would impose a significant economic burden on most businesses within the county.

(C) The combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) would exceed the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(D) The waiver of the surcharge for those counties applying for and qualifying for a waiver, and the resulting increase in the surcharge for other counties, would not, when considered cumulatively, impose a significant economic burden on businesses in any other county that does not apply for, or does not meet the criteria for, a waiver of the surcharge.

(e) The secretary shall review all of the requests for a waiver of the surcharge made pursuant to subdivision (d) simultaneously, so as to adequately assess the cumulative impact of granting the requested waivers on businesses in those counties that have not applied, or do not qualify, for a waiver, and shall grant or deny all requests for a waiver of the surcharge within 30 days from the date that the secretary certifies all

counties applying, and qualifying, for a waiver. If the secretary finds that the grant of a waiver of the surcharge for all counties applying and qualifying for the waiver will impose a significant economic burden on businesses in one or more other counties, the secretary shall take either of the following actions:

(1) Deny all of the applications for a waiver of the surcharge.

(2) Approve only a portion of the waiver requests for counties meeting the criteria set forth in subdivision (d), to the extent that the approved waivers, when taken as a whole, meet the condition specified in subparagraph (D) of paragraph (2) of subdivision (d). In determining which of the counties' waiver requests to grant, the secretary shall consider all of the following factors:

(A) The relative degree to which the assessment of the surcharge will impose a significant economic burden on most businesses within each county applying and qualifying for a waiver.

(B) The relative degree to which the combined dollar amount of the surcharge and the single fee system to be assessed, pursuant to subdivision (a), by each county applying and qualifying for a waiver exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(C) The relative extent to which each county applying and qualifying for a waiver has incorporated, or will incorporate, upon certification, additional programs pursuant to subdivision (d) of Section 25404.2, into the unified program within the county's jurisdiction.

(f) The secretary may, at any time, terminate a county's waiver of the surcharge granted pursuant to subdivisions (d) and (e) if the secretary determines that the criteria specified in subdivision (d) for the grant of a waiver are no longer met.

SEC. 10. Section 25404.6 of the Health and Safety Code is amended to read:

25404.6. (a) The secretary may immediately implement those aspects of the unified program which do not require statutory changes. If the secretary determines that statutory changes are needed to fully implement the program, the secretary shall recommend those changes to the Legislature on or before March 1, 1995, so that the changes, if approved by the Legislature, can be implemented as part of the program by January 1, 1996.

(b) The secretary shall work in close consultation with the Environmental Protection Agency, and shall implement this chapter only to the extent that doing so will not result in this state losing its authorization or delegation to implement the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the Federal Water Pollution Control Act, (33 U.S.C. Sec. 1251 et seq.), the Emergency

Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.), and any other applicable federal laws.

(c) The secretary shall adopt regulations necessary for the orderly administration and implementation of the unified program. The regulations shall include, but are not limited to, performance standards to guide the secretary in evaluating unified program agencies including evaluation of fee accountability and enforcement activities. The secretary shall adopt those regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 11. Section 39619.6 is added to the Health and Safety Code, to read:

39619.6. By June 30, 2002, the state board and the State Department of Health Services, in consultation with the State Department of Education, the Department of General Services, and the Office of Environmental Health Hazard Assessment, shall conduct a comprehensive study and review of the environmental health conditions in portable classrooms, as defined in subdivision (k) of Section 17070.15 of the Education Code.

(b) The state board and the department shall jointly coordinate the study, oversee data analysis and quality assurance, coordinate stakeholder participation, and prepare recommendations. The state board shall develop and oversee the contract for field work, air monitoring and data analysis, and obtain equipment for the study. The department shall oversee the assessment of ventilation systems and practices and the evaluation of microbiological contaminants, and may provide laboratory analyses as needed.

(c) By August 31, 2000, the state board shall release a request for proposals for the field portion of the study. Field work shall begin not later than July, 2001. The final report shall be completed on or before June 30, 2002, and shall be provided to the appropriate policy committees of the Legislature. The study of portable classrooms shall include all of the following:

(1) Review of design and construction specifications, including those for ventilation systems.

(2) Review of school maintenance practices, including the actual operation or nonoperation of ventilation systems.

(3) Assessment of indoor air quality.

(4) Assessment of potential toxic contamination, including molds and other biological contaminants.

(d) The final report shall summarize the results of the study and review, and shall include recommendations to remedy and prevent unhealthful conditions found in portable classrooms, including the need for all of the following:

(1) Modified design and construction standards, including ventilation specifications.

(2) Emission limits for building materials and classroom furnishings.

(3) Other mitigation actions to ensure the protection of children's health.

SEC. 12. Section 13177.5 is added to the Water Code, to read:

13177.5. (a) The state board, in consultation with the Office of Environmental Health Hazard Assessment, shall develop a comprehensive coastal monitoring and assessment program for sport fish and shellfish, to be known as the Coastal Fish Contamination Program. The program shall identify and monitor chemical contamination in coastal fish and shellfish and assess the health risks of consumption of sport fish and shellfish caught by consumers.

(b) The state board shall consult with the Department of Fish and Game, the Office of Environmental Health Hazard Assessment, and regional water quality control boards with jurisdiction over territory along the coast, to determine chemicals, sampling locations, and the species to be collected under the program. The program developed by the state board shall include all of the following:

(1) Screening studies to identify coastal fishing areas where fish species have the potential for accumulating chemicals that pose significant health risks to human consumers of sport fish and shellfish.

(2) The assessment of at least 60 screening study monitoring sites and 120 samples in the first five years of the program and an assessment of additional screening study sites as time and resources permit.

(3) Comprehensive monitoring and assessment of fishing areas determined through screening studies to have a potential for significant human health risk and a reassessment of these areas every five years.

(c) Based on existing fish contamination data, the state board shall designate a minimum of 40 sites as fixed sampling locations for the ongoing monitoring effort.

(d) The state board shall contract with the Office of Environmental Health Hazard Assessment to prepare comprehensive health risk assessments for sport fish and shellfish monitored in the program. The assessments shall be based on the data collected by the program and information on fish consumption and food preparation. The Office of Environmental Health Hazard Assessment, within 18 months of the completion of a comprehensive study for each area by the state board, shall submit to the board a draft health risk assessment report for that

area. Those health risk assessments shall be updated following the reassessment of areas by the board.

(e) The Office of Environmental Health Hazard Assessment shall issue health advisories when the office determines that consuming certain fish or shellfish presents a significant health risk. The advisories shall contain information for the public, and particularly the population at risk, concerning health risks from the consumption of the fish or shellfish. The office shall notify the appropriate county health officers, the State Department of Health Services, and the Department of Fish and Game, prior to the issuance of a health advisory. The notification shall provide sufficient information for the purpose of posting signage. The office shall urge county health officers to conspicuously post health warnings in areas where contaminated fish or shellfish may be caught including piers, commercial passenger fishing vessels, and shore areas where fishing occurs. The Department of Fish and Game shall publish the office's health warnings in its Sport Fishing Regulations Booklet.

SEC. 12.5. Section 13177.6 is added to the Water Code, to read:

13177.6. To the extent funding is appropriated for this purpose, the state board, in consultation with the Department of Fish and Game and Office of Environmental Health Hazard Assessment, shall perform a monitoring study to reassess the geographic boundaries of the commercial fish closure off the Palos Verdes Shelf. The reassessment shall include collection and analysis of white croaker caught on the Palos Verdes Shelf, within three miles south of the Shelf, and within San Pedro Bay. Based on the results of the reassessment, the Department of Fish and Game, with guidance from the Office of the Environmental Health Hazard Assessment, shall redelineate, if necessary, the commercial fish closure area to protect the health of consumers of commercially caught white croaker. The sample collection and analysis shall be conducted within 18 months of the enactment of this section and the reassessment of the health risk shall be conducted within 18 months of the completion of the analysis of the samples.

SEC. 13. (a) Of the amount appropriated by Item 3960-011-0001 of Section 2.00 of the Budget Act of 2000 to establish an urban cleanup program to clean up and redevelop contaminated properties, known as brownfields, the sum of eighty-five million dollars ($85,000,000) is hereby transferred to the Cleanup Loans and Environmental Assistance to Neighborhoods Account.

(b) Five hundred thousand dollars ($500,000) is hereby appropriated from the Cleanup Loans and Environmental Assistance to Neighborhoods Account to the Department of Toxic Substances Control for program development related to the redevelopment of contaminated properties known as ''brownfields'' during the 2000–01 fiscal year.

SEC. 14. 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.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2000 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 145

An act to amend Section 30630.5 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 30630.5 of the Public Utilities Code is amended to read:

30630.5. The district may operate charter bus service, subject to all of the following limitations:

(a) No bus equipment that is designed solely for charter service shall be purchased. A bus equipped with a toilet or underfloor baggage compartment shall be deemed to be bus equipment that is designed solely for charter service.

(b) Except as provided in subdivisions (d) and (e), the board shall hold a public hearing prior to adopting a charter rate schedule or any amendment thereto. Notice of the hearing shall be mailed to each charter-party carrier operating within the district at least 30 days prior to the date of the hearing. The notice shall include the proposed charter rate schedule. At the close of the public hearing, the board may adopt charter rate schedules, which shall not be less than the average for the three largest private charter-party carriers operating similar service in the district.

(c) Charter service operations by the district shall originate and terminate within the area served by the district, unless a private charter-party carrier requests the district to provide service beyond that area.

(d) The district may establish a schedule of rates for charter bus services that are incidental to the holding of the Olympic Games in Los Angeles. The rates for charter-party bus services established under this subdivision shall be sufficient to pay all fully allocated costs related to those charter bus services and shall contribute financially to the reduction of deficits incurred by the district in the operation of scheduled route services. The rates shall be at least equal to the average of the lowest rates charged by the three largest private charter-party carriers operating similar service in Los Angeles County. The schedule of rates shall be effective from May 1, 1984, to September 30, 1984, inclusive.

(e) The district may provide charter service for a national political convention to be held in Los Angeles in August 2000, to the extent that private charter-party carriers are not capable of providing that service. As used in this subdivision, the phrase ''not capable of providing that service'' includes, but is not limited to, the inability to meet requirements including, but not limited to, requirements with regard to unique equipment, fuel type, number of doors, accommodations for standing passengers, handicap accessibility, or the nature of the service.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Southern California Rapid Transit District to provide charter bus service for the 2000 Democratic National Convention, to be held in Los Angeles in August 2000, it is necessary that this act take immediate effect.

CHAPTER 146

An act to amend Sections 54999.2 and 54999.4 of, and to add Section 54999.35 to, the Government Code, to amend Section 13076 of the Public Resources Code, to add Sections 10004.5, 12702.5, and 16402.5 to the Public Utilities Code, and to add Section 22651.5 to the Water Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 54999.2 of the Government Code is amended to read:

54999.2. Any public agency providing public utility service on or after July 21, 1986, may continue to charge, or may increase, an existing capital facilities fee, or may impose a new capital facilities fee after that date, and any public agency receiving a public utility's service shall pay those fees so imposed, except as provided in Sections 54999.3 and 54999.35.

SEC. 2. Section 54999.35 is added to the Government Code, to read:

54999.35. (a) This section shall apply only to a local publicly owned electric utility or other public agency providing public electric utility service to a public agency in its service territory, as specified in subdivision (b). ''Local publicly owned electric utility'' as used in this section means all of the following:

(1) A municipality or municipal corporation operating as a ''public utility'' furnishing electric commodity or electric service as provided in Section 10001 of the Public Utilities Code.

(2) Any special district furnishing electric commodity or electric service, including, but not limited to, any of the following:

(A) A resort improvement district formed pursuant to Division 11 (commencing with Section 13000) of the Public Resources Code.

(B) A municipal utility district formed pursuant to Division 6 (commencing with Section 11501) of the Public Utilities Code.

(C) A public utility district formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501) of the Public Utilities Code.

(D) An irrigation district formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code.

(3) A joint powers authority that includes one or more of these agencies that furnishes electric commodity or electric service over its own or its member's electric distribution system.

(b) The imposition of a capital facilities fee for electric utility service on any school district, county office of education, community college district, the California State University, the University of California, or state agency by a public agency providing public utility service shall be subject to all of the following:

(1) Where necessary to defray the actual construction costs of that portion of a public utility facility actually serving a public agency, any public agency providing public utility service on or after July 21, 1986, may continue to charge any capital facilities fee that was imposed prior to that date on the public agency using the public utility service and that

was not protested or challenged pursuant to law prior to January 1, 1987, or increase that capital facility fee in an amount not to exceed the percentage increase in the Implicit Price Deflator for State and Local Government Purchases, as determined by the Department of Finance, and any public agency shall pay any capital facilities fees authorized by this subdivision.

(2) Any public agency proposing to initially impose a capital facilities fee or to increase an existing capital facilities fee in excess of the amount set forth in paragraph (1), may do so after agreement has been reached between the two agencies through negotiations entered into by both parties.

(3) Upon request of the affected public agency or upon increase pursuant to paragraph (1), the public agency imposing or increasing the fee shall identify the amount of the capital facilities fee. The public agency imposing or increasing the capital facilities fee has the burden of producing evidence to establish all of the following:

(A) The capital facilities fee is nondiscriminatory.

(B) The amount of the capital facilities fee does not exceed the amount necessary to provide capital facilities for which the fee is charged.

(C) The capital facilities fee complies with the requirements set forth in paragraph (1).

(4) A public agency proposing to enact or increase capital facilities fees under this section shall notify by certified mail any school district, county office of education, community college district, California State University, University of California, or state agency located within its service area that is an electric utility customer of the public agency, not less than 30 days prior to the date of any hearing set to consider an ordinance resolution, or motion enacting or increasing a capital facilities fee. The notice shall state the date, time, and place of any hearing. The notice shall also state that the public agency proposes to impose a new capital facilities fee or to increase an existing capital facilities fee in an amount that either complies with the requirements of paragraph (1) or in an amount that exceeds capital facilities fees permissible under paragraph (1).

(5) The notice described in paragraph (4) shall designate an individual at the public agency who shall make available, upon request, for inspection by any school district, county office of education, community college district, California State University, University of California, or state agency located within its service area, the information relied upon in setting the fee or increase, including the methodology used to calculate and allocate the capital expenditures giving rise to the fee or increase, and an identification of the capital facilities that contribute to the fee or increase, as well as any other

information relevant to determining whether or not the fee or increase complies with the provisions of this section. The affected school district, county office of education, community college district, California State University, University of California, or state agency shall designate the individual who is to receive the notice, and the public agency providing public utility service shall direct the notice to that individual. If no specific individual is designated, then the notice shall be addressed to the billing address of the affected facility. In the case of an affected state agency, after an initial notice has been delivered by certified mail to the billing address of the affected state agency facility, subsequent notice may be directed to the billing address of the state agency by first-class mail, unless the affected state agency specifically requests that the notice be directed to a designated individual by certified mail. A subsequent notice to other affected public agency facilities shall be by certified mail directed to the billing address of the affected facility.

(6) Any judicial action or proceeding to protest or challenge a rate or charge that contains a capital facilities fee or to seek a refund of any capital facilities fee imposed on or after July 1, 2000, shall be commenced within 120 days of the effective date of the ordinance, resolution, or motion enacting or increasing the rate, charge, or capital facilities fee, provided that the notice and disclosure requirements of paragraphs (4) and (5) have been followed. If the notice and disclosure requirements of paragraphs (4) and (5) have not been complied with, the 120-day limitation period is not applicable to the judicial action or proceeding to protest or challenge a rate or charge or to seek the refund of any capital facilities fee imposed on or after July 1, 2000.

(7) No limitation period in Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure may bar any judicial action, proceeding or appeal protesting or seeking a refund of a rate, charge, capital facilities fee or capital facilities fee component of a rate or charge imposed on or after April 1, 2000, if the notice and disclosure requirements of paragraphs (4) and (5) have not been followed.

SEC. 3. Section 54999.4 of the Government Code is amended to read:

54999.4. Any capital facilities fees paid prior to March 24, 1988, and not protested or challenged pursuant to law on or before January 1, 1987, shall not be subject to refund, except for capital facilities fees paid after July 21, 1986, by a public agency subject to Section 54999.3 that are in excess of the maximum amount authorized by Sections 54999.3 and 54999.35. Agreements entered into prior to or after March 24, 1988, for the payment of capital facilities fees or capacity charges shall be effective.

SEC. 4. Section 13076 of the Public Resources Code is amended to read:

13076. (a) Notwithstanding any other provision of this chapter, and in addition to any other powers conferred thereby, Resort Improvement District Number 1, in the County of Humboldt, may produce, purchase, and sell electrical power within the boundaries of the district.

(b) Except as provided in subdivision (c), any judicial action or proceeding against the district to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by the district and adopted on or after July 1, 2000, shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

(c) The statute of limitations set forth in subdivision (b) does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure requirements of Section 54999.35 of the Government Code have not been followed.

SEC. 5. Section 10004.5 is added to the Public Utilities Code, to read:

10004.5. (a) Except as provided for in subdivision (b), any judicial action or proceeding against a municipal corporation that provides electric utility service, to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by a municipal corporation and adopted on or after July 1, 2000, shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

(b) This section does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure requirements of Section 54999.35 of the Government Code have not been followed.

SEC. 6. Section 12702.5 is added to the Public Utilities Code, to read:

12702.5. (a) Except as specified in subdivision (b), any judicial action or proceeding against a district that provides electric utility service, to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by a district and adopted on or after July 1, 2000, shall be commenced within 120 days of the effective date of that ordinance, resolution or motion.

(b) The statute of limitations specified in subdivision (a) does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7

(commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure requirements of Section 54999.35 of the Government Code have not been followed.

SEC. 7. Section 16402.5 is added to the Public Utilities Code, to read:

16402.5. (a) Except as provided in subdivision (b), any judicial action or proceeding against a district that provides electric utility service, to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by a district and adopted on or after July 1, 2000, shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

(b) This section does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure requirements of Section 54999.35 of the Government Code have not been followed.

SEC. 8. Section 22651.5 is added to the Water Code, to read:

22651.5. (a) Except as specified in subdivision (b), any judicial action or proceeding against a district to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by the district and adopted on or after July 1, 2000, shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

(b) The statute of limitations specified in subdivision (a) does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure requirements of Section 54999.35 of the Government Code have not been followed.

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 encourage competition and promote rate stability in the evolving electric marketplace as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 147

An act to amend Sections 48919 and 48923 of the Education Code, relating to pupil expulsion.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 48919 of the Education Code is amended to read:

48919. If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education, or in a class 1 or class 2 county a hearing officer or impartial administrative panel, shall hold the hearing within 20 schooldays following the filing of a formal request under this section. If the county board of education hears the appeal without a hearing conducted pursuant to Section 48919.5, then the board shall render a decision within three schooldays of the hearing conducted pursuant to Section 48920, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. If the county board of education in a class 1 or class 2 county elects to use the procedures in Section 48919.5, then the board shall adopt rules and regulations establishing procedures for expulsion appeals conducted under Section 48919.5. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a written request for a copy of the written transcripts and supporting documents from the school district simultaneously with the filing of the notice of appeal with the county

board of education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within 10 schooldays following the pupil's written request. Upon receipt of the records, the pupil shall immediately file suitable copies of these records with the county board of education.

SEC. 2. Section 48923 of the Education Code is amended to read:

48923. The decision of the county board shall be limited as follows:

(a) If the county board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, it may do either of the following:

(1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending the reconsideration.

(2) Grant a hearing de novo upon reasonable notice thereof to the pupil and to the governing board. The hearing shall be conducted in conformance with the rules and regulations adopted by the county board under Section 48919.

(b) If the county board determines that the decision of the governing board is not supported by the findings required to be made by Section 48915, but evidence supporting the required findings exists in the record of the proceedings, the county board shall remand the matter to the governing board for adoption of the required findings. This remand for the adoption and inclusion of the required findings shall not result in an additional hearing pursuant to Section 48918, except that final action to expel the pupil based on the revised findings of fact shall meet all requirements of subdivisions (j) and (k) of Section 48918.

(c) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the record of the pupil and the records of the district of any references to the expulsion action and the expulsion shall be deemed not to have occurred.

CHAPTER 148

An act to amend Section 1276.4 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 1276.4 of the Health and Safety Code is amended to read:

1276.4. (a) By January 1, 2002, the State Department of Health Services shall adopt regulations that establish minimum, specific, and numerical licensed nurse-to-patient ratios by licensed nurse classification and by hospital unit for all health facilities licensed pursuant to subdivision (a), (b), or (f) of Section 1250. The department shall adopt these regulations in accordance with the department's licensing and certification regulations as stated in Sections 70053.2, 70215, and 70217 of Title 22 of the California Code of Regulations, and the professional and vocational regulations in Section 1443.5 of Title 16 of the California Code of Regulations. The department shall review these regulations five years after adoption and shall report to the Legislature regarding any proposed changes. Flexibility shall be considered by the department for rural general acute care hospitals in response to their special needs. As used in this subdivision, ''hospital unit'' means a critical care unit, burn unit, labor and delivery room, postanesthesia service area, emergency department, operating room, pediatric unit, step-down/intermediate care unit, specialty care unit, telemetry unit, general medical care unit, subacute care unit, and transitional inpatient care unit. The regulation addressing the emergency department shall distinguish between regularly scheduled core staff licensed nurses and additional licensed nurses required to care for critical care patients in the emergency department.

(b) These ratios shall constitute the minimum number of registered and licensed nurses that shall be allocated. Additional staff shall be assigned in accordance with a documented patient classification system for determining nursing care requirements, including the severity of the illness, the need for specialized equipment and technology, the complexity of clinical judgment needed to design, implement, and evaluate the patient care plan and the ability for self-care, and the licensure of the personnel required for care.

(c) ''Critical care unit'' as used in this section means a unit that is established to safeguard and protect patients whose severity of medical conditions requires continuous monitoring, and complex intervention by licensed nurses.

(d) All health facilities licensed under subdivision (a), (b), or (f) of Section 1250 shall adopt written policies and procedures for training and orientation of nursing staff.

(e) No registered nurse shall be assigned to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area

sufficient to provide competent care to patients in that area, and has demonstrated current competence in providing care in that area.

(f) The written policies and procedures for orientation of nursing staff shall require that all temporary personnel shall receive orientation and be subject to competency validation consistent with Sections 70016.1 and 70214 of Title 22 of the California Code of Regulations.

(g) Requests for waivers to this section that do not jeopardize the health, safety, and well-being of patients affected and that are needed for increased operational efficiency may be granted by the state department to rural general acute care hospitals meeting the criteria set forth in Section 70059.1 of Title 22 of the California Code of Regulations.

(h) In case of conflict between this section and any provision or regulation defining the scope of nursing practice, the scope of practice provisions shall control.

(i) The regulations adopted by the department shall augment and not replace existing nurse-to-patient ratios that exist in regulation or law for the intensive care units, the neonatal intensive care units, or the operating room.

(j) The regulations adopted by the department shall not replace existing licensed staff-to-patient ratios for hospitals operated by the State Department of Mental Health.

(k) The regulations adopted by the department for health facilities licensed under subdivision (b) of Section 1250 that are not operated by the State Department of Mental Health shall take into account the special needs of the patients served in the psychiatric units.

(*l*) The department may take into consideration the unique nature of the University of California teaching hospitals as educational institutions when establishing licensed nurse-to-patient ratios. The department shall coordinate with the Board of Registered Nursing to ensure that staffing ratios are consistent with the Board of Registered Nursing approved nursing education requirements. This includes nursing clinical experience incidental to a work-study program rendered in a University of California clinical facility approved by the Board of Registered Nursing provided there will be sufficient direct care registered nurse preceptors available to ensure safe patient care.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the State Department of Health Services sufficient time to develop regulations that establish licensed nurse-to-patient ratios

for licensed health facilities as prescribed by existing law, it is necessary that this act take effect immediately.

CHAPTER 149

An act to amend Section 602 of the Penal Code, relating to trespass.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 602 of the Penal Code is amended to read:

602. Except as provided in Section 602.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road, or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any such lands, whether covered by water or not, without the license of the owner or legal occupant; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent or of the person in lawful possession, and

(1) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent or by the person in lawful possession to leave the lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands, or

(4) Discharging any firearm.

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession. This

subdivision shall not apply to any person described in Section 22350 of the Business and Professions Code who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly

employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable person that the person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(r) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a written agreement to the contrary, or other written evidence of a periodic tenancy of indefinite duration, be exempt from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(s) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

This subdivision shall apply only to a person who has been convicted of a violent felony, as specified in subdivision (c) of Section 667.5, committed upon the particular private property. A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner's agent, or the person in lawful possession of the property.

(t) (1) Knowingly entering, by an unauthorized person, upon any airport operations area if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars ($100).

(B) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both, if the person refuses to leave the airport operations area after being requested to leave by a peace officer.

(C) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both, for a second or subsequent offense.

(3) As used in this subdivision the following definitions shall control:

(A) ''Airport operations area'' means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) ''Authorized personnel'' means any person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card.

(C) ''Airport'' means any facility whose function is to support commercial aviation.

(u) Refusing or failing to leave a battered women's shelter at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

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 150

An act to amend Section 130105, and to add Section 130140.1 to the Health and Safety Code, relating to child development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 130105 of the Health and Safety Code is amended to read:

130105. The California Children and Families Trust Fund is hereby created in the State Treasury.

(a) The California Children and Families Trust Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30131.2 of the Revenue and Taxation Code.

(b) All costs to implement this act shall be paid from moneys deposited in the California Children and Families Trust Fund.

(c) The State Board of Equalization shall determine within one year of the passage of this act the effect that additional taxes imposed on cigarettes and tobacco products by this act has on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be the direct result of additional taxes imposed by this act, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the funding of any Proposition 99 (the Tobacco Tax and Health Protection Act of 1988) state health-related education or research programs in effect as of November 1, 1998, and the Breast Cancer Fund programs that are funded by excise taxes on cigarettes and tobacco products. Funds shall be transferred from the California Children and Families Trust Fund to those affected programs as necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this act. Such reimbursements shall occur, and at such times, as determined necessary to further the intent of this subdivision.

(d) Moneys shall be allocated and appropriated from the California Children and Families Trust Fund as follows:

(1) Twenty percent shall be allocated and appropriated to separate accounts of the state commission for expenditure according to the following formula:

(A) Six percent shall be deposited in a Mass Media Communications Account for expenditures for communications to the general public utilizing television, radio, newspapers, and other mass media on subjects relating to and furthering the goals and purposes of this act, including, but not limited to, methods of nurturing and parenting that encourage proper childhood development, the informed selection of child care, information regarding health and social services, the prevention of tobacco, alcohol, and drug use by pregnant women, and the detrimental effects of secondhand smoke on early childhood development.

(B) Five percent shall be deposited in an Education Account for expenditures for programs relating to education, including, but not

limited to, the development of educational materials, professional and parental education and training, and technical support for county commissions in the areas described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 130125.

(C) Three percent shall be deposited in a Child Care Account for expenditures for programs relating to child care, including, but not limited to, the education and training of child care providers, the development of educational materials and guidelines for child care workers, and other areas described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 130125.

(D) Three percent shall be deposited in a Research and Development Account for expenditures for the research and development of best practices and standards for all programs and services relating to early childhood development established pursuant to this act, and for the assessment and quality evaluation of such programs and services.

(E) One percent shall be deposited in an Administration Account for expenditures for the administrative functions of the state commission. Any funds not needed for the administrative functions of the state commission may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(F) Two percent shall be deposited in an Unallocated Account for expenditure by the state commission for any of the purposes of this act described in Section 130100 provided that none of these moneys shall be expended for the administrative functions of the state commission.

(G) In the event that, for whatever reason, the expenditure of any moneys allocated and appropriated for the purposes specified in subparagraphs (A) to (F), inclusive, is enjoined by a final judgment of a court of competent jurisdiction, then those moneys shall be available for expenditure by the state commission for mass media communication emphasizing the need to eliminate smoking and other tobacco use by pregnant women, the need to eliminate smoking and other tobacco use by persons under 18 years of age, and the need to eliminate exposure to secondhand smoke.

(H) Any moneys allocated and appropriated to any of the accounts described in subparagraphs (A) to (F), inclusive, that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same account for the next fiscal period.

(2) Eighty percent shall be allocated and appropriated to county commissions in accordance with Section 130140.

(A) The moneys allocated and appropriated to county commissions shall be deposited in each local Children and Families Trust Fund administered by each county commission, and shall be expended only

for the purposes authorized by this act and in accordance with the county strategic plan approved by each county commission.

(B) Any moneys allocated and appropriated to any of the county commissions that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same local Children and Families Trust Fund for the next fiscal period under the same conditions as set forth in subparagraph (A).

(e) All grants, gifts, or bequests of money made to or for the benefit of the state commission from public or private sources to be used for early childhood development programs shall be deposited in the California Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the state commission pursuant to paragraph (1) of subdivision (d).

(f) All grants, gifts, or bequests of money made to or for the benefit of any county commission from public or private sources to be used for early childhood development programs shall be deposited in the local Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the county commissions pursuant to paragraph (2) of subdivision (d).

SEC. 2. Section 130140.1 is added to the Health and Safety Code, to read:

130140.1. (a) In the event a county elects to participate in the California Children and Families Program, and satisfies the requirements set forth in Section 130140, the county may establish a county commission that is either of the following:

(1) A legal public entity separate from the county.

(2) An agency of the county with independent authority over the strategic plan described in Section 130140 and the local trust fund established pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(b) In the event a county elects to establish a county commission as specified in paragraph (1) of subdivision (a), the following conditions shall apply:

(1) The county commission shall be considered a legal pubic entity separate from the county, and shall file a statement as required by Section 53051 of the Government Code.

(2) The powers, duties, and responsibilities of the county commission shall include, but shall not be limited to, the following:

(A) The power to employ personnel and contract for personal services required to meet its obligations.

(B) The power to enter into any contracts necessary or appropriate to carry out the provisions of this division.

(C) The power to acquire, possess, and dispose of real or personal property, as necessary or appropriate to carry out the provisions and purposes of this division.

(D) The power to sue or be sued.

(3) The county commission shall be deemed to be a public agency that is a unit of local government for purposes of all grant programs and other funding and loan guarantee programs.

(4) Any obligations of the county commission, statutory, contractual, or otherwise, shall be obligations solely of the commission.

(5) All claims or actions for money or damages against a county commission shall be governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that expressly apply to county commissions.

(6) The county commission, its members, and its employees, are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the county commissions.

(7) If a county board of supervisors elects not to continue the county's participation in the California Children and Families Program, the board shall adopt an ordinance terminating the county commission.

(A) In terminating its county commission, the board of supervisors shall allow, to the extent possible, an appropriate transition period to allow for the county commission's then-existing obligations to be satisfied.

(B) In event of termination, any unencumbered and unexpended moneys remaining in the local Children and Families Trust Fund shall be distributed pursuant to subdivision (e) of Section 130140.

(C) Prior to the termination of the county commission, the board of supervisors shall notify the state Children and Families Commission of its intent to terminate the county commission.

(D) The liabilities of the county commission shall not become obligations of the county upon either the termination of the county commission or the liquidation or disposition of the county commission's remaining assets.

(c) If a county elects to establish a county commission as provided in paragraph (2) of subdivision (a), the county commission shall be deemed to be an agency of the county with independent authority over the

strategic plan described in Section 130140 and the local Children and Families Trust Fund established pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(d) Any county commission established prior to the effective date of this section that substantially complies with the provisions of either subdivision (b) or (c) shall be deemed to be in compliance with this section.

SEC. 3. The Legislature finds and declares that this act furthers the California Children and Families Act of 1998 enacted by Proposition 10 at the November 3, 1998, general election, and is consistent with its purposes.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Proposition 10, approved at the November 3, 1998 general election, requires the establishment of county commissions to create and implement a system of information and services to enhance optimal early childhood development. In order for these commissions to operate fully and at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 151

An act to amend Section 927.1 of the Government Code, relating to state contracts.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 927.1 of the Government Code is amended to read:

927.1. (a) A state agency that acquires property or services pursuant to a contract with a business, including any approved change order or contract amendment, shall make payment to the person or business on the date required by the contract and as required by Section 927.4 or be subject to a late payment penalty.

(b) Except in the event of an emergency as provided in Section 927.11, effective January 1, 1999, the late payment penalties specified in this chapter may not be waived, altered, or limited by a state agency

acquiring property or services pursuant to a contract or by any person or business contracting with a state agency to provide property or services.

CHAPTER 152

An act to repeal and add Section 115910 of the Health and Safety Code, relating to public beaches.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 115910 of the Health and Safety Code is repealed.

SEC. 2. Section 115910 is added to the Health and Safety Code, to read:

115910. (a) On or before the 15th day of each month, each health officer shall submit to the board a survey documenting all beach postings and closures resulting from implementation of Section 115915 that occurred during the preceding month. The survey shall, at a minimum, include the following information:

(1) Identification of the beaches in each county subject to testing conducted pursuant to Section 115885 and the amount and types of monitoring conducted at each beach.

(2) Identification of the geographic location, areal extent, and type of action taken for each incident of posting or closure conducted pursuant to Section 115915. Geographic location and areal extent shall be noted in sufficient detail to determine on a common map, or by latitude and longitude, the approximate boundaries of the affected beaches.

(3) Identification of the standards exceeded and the causes and sources of the pollution, if known. Exceeded standards shall be identified with sufficient particularity to determine which types of tests and biological indicators were used to determine that an exceeded standard exists. Causes of pollution shall be identified with sufficient particularity to determine what substances, in addition to any water carrying the substances, were responsible for the exceeded standard. Sources shall be identified with sufficient particularity to determine the most specific geographical origin of the pollution sources available to the health officer at the time of the posting or closure.

(b) Surveys conducted pursuant to subdivision (a) shall be in a specific format established by the board on or before February 1, 2001. The board shall make the format easily accessible to the health officer

through means that will enable the health officer to most effectively carry out the requirements of this section and enable the board to develop consistent, statewide data concerning the effect and status of beach postings and closures in a particular calendar year.

(c) On or before the 30th day of each month, the board shall make available to the public the information provided by the health officers. Based upon the data provided pursuant to subdivision (a), the report shall, at a minimum, include the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(d) On or before July 30 of each year, the board shall publish a statewide report documenting the beach posting and closure data provided to the board by the health officers for the preceding calendar year. Based upon the data provided pursuant to subdivision (a), the report shall, at a minimum, include the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(e) Within 30 days of publication of the annual report, the board shall distribute copies of the report to the Governor, the Legislature, and major media organizations, and copies of the report shall be made available to the public by a variety of means typically available to the board.

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 153

An act to amend Section 3003 of the Penal Code, relating to sex offenders.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration.

For purposes of this subdivision, ''last legal residence'' shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections to local law enforcement agencies regarding a paroled inmate who is released in their jurisdictions:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer, such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single-digit fingerprint of the parolee.

(M) A geographic coordinate for the parolee's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(2) The information required by this subdivision shall come from the statewide parolee data base. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other provision of law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9, if the victim or witness has requested additional distance in the placement of the

inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(g) Notwithstanding any other law, an inmate who is released on parole for any violation of Section 288 or 288.5 shall not be placed or reside, for the duration of his or her period of parole, within one-quarter mile of any school that includes any or all of grades kindergarten to 6, inclusive.

(h) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(i) An inmate may be paroled to another state pursuant to any other law.

(j) (1) Except as provided in paragraph (2), the Department of Corrections shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e).

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

CHAPTER 154

An act to amend Sections 6971, 6978, and 6979 of the Food and Agricultural Code, relating to citrus fruit trees, and making an appropriation therefor.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 6971 of the Food and Agricultural Code is amended to read:

6971. (a) Prior to January 10th of each year, or as soon thereafter as possible, the advisory board shall establish an annual assessment not to exceed 1 percent on the gross sales of all citrus fruit trees, except seedlings and rootstocks, produced and sold within the state or produced within and shipped from the state by any licensed nursery dealer during that dealer's applicable license period. This section does not apply to the sale of citrus fruit trees from one California producer to another.

(b) Gross sales shall be determined at the point of sale where the stock is sold to farmers for planting, to homeowners for dooryard planting, or to retailers or wholesalers for resale. The assessment shall only be levied and paid once on any particular plant.

(c) The secretary may set the assessment at a lower percent to cover the costs necessary to implement and carry out all department programs established pursuant to Article 7 (commencing with Section 5821) of Chapter 8 of Part 1 concerning the registration and certification of citrus fruit trees, the University of California clonal activities concerning citrus fruit trees, indexing, registration, and disease testing for new varieties and budwood sources, and other activities related to the development of planting materials for citrus fruit trees.

SEC. 2. Section 6978 of the Food and Agricultural Code is amended to read:

6978. The secretary, upon consultation with the citrus fruit tree nursery industry, shall appoint a board to assist and advise the secretary concerning the implementation of this article.

(a) The board shall consist of eight members, a majority of whom are licensed producers of citrus fruit tree nurserystock, and a minority of whom are users and a public member, as follows:

(1) Five from citrus fruit tree nurseries.

(2) Two from the citrus fruit industry.

(3) One public representative.

(b) Each term shall be for two-years. Board members may serve more than one term.

(c) Board members shall represent all areas of the state involved in the production of citrus fruit trees.

(d) The board shall meet at least twice a year. The chairperson or the secretary may call any other meeting when it is deemed necessary by one or both of them. Each member shall be allowed per diem and mileage in accordance with the rules of the Department of Personnel Administration for attending any meeting of the board.

(e) The board shall review and make recommendations to the secretary concerning the ongoing operations of the department and the University of California pertaining to this article. This shall include advice on expenditures, assessments needed to cover costs, and proposals concerning the development of planting materials.

SEC. 3. Section 6979 of the Food and Agricultural Code is amended to read:

6979. (a) This article shall become inoperative on April 10, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

(b) If the repeal date of this article is not extended beyond January 1, 2006, the final assessment levied pursuant to this article shall be due and payable on or before April 10, 2005.

CHAPTER 155

An act to repeal Section 1967 of the Streets and Highways Code, and to amend and repeal Section 21716 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 1967 of the Streets and Highways Code is repealed.

SEC. 2. Section 21716 of the Vehicle Code, as amended by Section 13 of Chapter 536 of the Statutes of 1997, is amended to read:

21716. Except as provided in Section 21115.1 and Chapter 6 (commencing with Section 1950) of Division 2.5 of the Streets and Highways Code, no person shall operate a golf cart on any highway except in a speed zone of 25 miles per hour or less.

SEC. 3. Section 21716 of the Vehicle Code, as amended by Section 4 of Chapter 536 of the Statutes of 1997, is repealed.

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 156

An act to amend Section 21702 of, and to add Section 21713.5 to, the Business and Professions Code, relating to self-service storage facilities.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 21702 of the Business and Professions Code is amended to read:

21702. The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, late payment fees, or other charges, present or future, incurred pursuant to the rental agreement and for expenses necessary for preservation, sale, or disposition of personal property subject to the provisions of this chapter. The lien may be enforced consistent with the provisions in this chapter.

SEC. 2. Section 21713.5 is added to the Business and Professions Code, to read:

21713.5. (a) The owner of a self-service storage facility may assess a reasonable late payment fee if an occupant does not pay the entire amount of the rental fee specified in the rental agreement, subject to the following requirements:

(1) No late payment fee shall be assessed unless the rental fee remains unpaid for at least 10 days after the date specified in the rental agreement for payment of the rental fee.

(2) The amount of the late payment fee shall be specified in the occupant's rental agreement.

(3) Only one late payment fee shall be assessed for each rental fee payment that is not paid on the date specified in the rental agreement.

(b) For purposes of this section, a ''reasonable late payment fee'' is one that does not exceed the following:

(1) Ten dollars ($10), if the rental agreement provides for monthly rent of sixty dollars ($60) or less.

(2) Fifteen dollars ($15), if the rental agreement provides for monthly rent greater than sixty dollars ($60), but less than one hundred dollars ($100).

(3) Twenty dollars ($20) or 15 percent of the monthly rental fee, whichever is greater, if the rental agreement provides for monthly rent of one hundred dollars ($100) or more.

CHAPTER 157

An act to amend Section 1797.109 of the Health and Safety Code, relating to emergency medical services.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 1797.109 of the Health and Safety Code is amended to read:

1797.109. (a) The director may develop, or prescribe standards for and approve, an emergency medical technician training and testing program for the Department of the California Highway Patrol, Department of Forestry and Fire Protection, California Fire Fighter Joint Apprenticeship Committee, and other public safety agency personnel, upon the request of, and as deemed appropriate by, the director for the particular agency.

(b) The director may, with the concurrence of the Department of the California Highway Patrol, designate the California Highway Patrol Academy as a site where the training and testing may be offered.

(c) The director may prescribe that each person, upon successful completion of the training course and upon passing a written and a practical examination, be certified as an emergency medical technician of an appropriate classification. A suitable identification card may be issued to each certified person to designate that person's emergency medical skill level.

(d) The director may prescribe standards for refresher training to be given to persons trained and certified under this section.

(e) The Department of the California Highway Patrol shall, subject to the availability of federal funds, provide for the initial training of its uniformed personnel in the rendering of emergency medical technician services to the public in specified areas of the state as designated by the Commissioner of the California Highway Patrol.

CHAPTER 158

An act to amend Section 124870 of the Health and Safety Code, relating to Medi-Cal.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 124870 of the Health and Safety Code is amended to read:

124870. (a) The department shall adopt regulations that will provide for an increase in reimbursement rates for outpatient services rendered to Medi-Cal patients by small and rural hospitals, as defined in

Section 124840, over and above those reimbursement rates specified in Section 51509 of the California Code of Regulations. The amount of this increase shall be governed by the funding allocated for this specific purpose in the Budget Act, or in another specific appropriation measure.

(b) The rate adjustment authorized by subdivision (a) shall be allocated to eligible hospitals as follows:

(1) A separate percentage increase shall be calculated for minimum floor and nonminimum floor hospitals based on the ratio of each small and rural hospitals' Medi-Cal outpatient payments to the total of all small and rural hospitals' Medi-Cal outpatient payments during the preceding calendar year, as determined by the department. The percentage rate increase for minimum floor hospitals shall be 125 percent of the rate increase percentage calculated for nonminimum floor hospitals. The combined rate increases for minimum floor and nonminimum floor hospitals shall not exceed the funds appropriated for this purpose.

(2) For purposes of this section, ''minimum floor hospital'' means a hospital (A) where Medi-Cal payments for outpatient services during the preceding calendar year were less than $^1/_2$ percent of the total of Medi-Cal payments for outpatient services rendered by all small and rural hospitals during that period and (B) where the total gross patient revenue from all sources during that period was less than ten million dollars ($10,000,000).

(3) For purposes of this section, ''nonminimum floor hospital'' means a hospital (A) where Medi-Cal payments for outpatient services during the preceding calendar year equaled or exceeded $^1/_2$ percent or of the total of Medi-Cal payments for outpatient services rendered by all small and rural hospitals during that period or (B) where the total gross patient revenue from all sources during that period was ten million dollars ($10,000,000) or more.

(c) For the purpose of calculating the percentage increase, if any eligible hospital had less than a full year of operation upon which to determine the ratio of Medi-Cal expenditures as defined in paragraph (1) of subdivision (b), the department shall extrapolate the Medi-Cal paid claims expenditures for that hospital to estimate a full year's Medi-Cal claims expenditure.

(d) Payment under this section shall be contingent upon submission of approved claims for Medi-Cal outpatient services rendered after January 1, 1989.

(e) The Director of Health Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement the rate adjustments required under this section. The adoption of these regulations shall be deemed an emergency and necessary for the

immediate preservation of the public peace, health, or safety. Notwithstanding any provision of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department to implement the rate adjustments required under this section shall not be subject to any review, approval, or disapproval by the Office of Administrative Law at any stage of the rulemaking process. These regulations shall become effective immediately upon their filing with the Secretary of State.

(f) Notwithstanding any other provision of law, reimbursement rates adopted pursuant to this section shall not exceed the hospital's usual and customary charges for services rendered.

(g) The department shall maximize federal financial participation in implementing this section.

(h) This section shall become operative July 1, 1989.

CHAPTER 159

An act to add Section 6610 to the Public Contract Code, relating to public contracts.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 6610 is added to the Public Contract Code, to read:

6610. Notice inviting formal bids for projects by a public agency that include a requirement for any type of mandatory prebid conference, site visit, or meeting shall include the time, date, and location of the mandatory prebid site visit, conference or meeting, and when and where project documents, including final plans and specifications are available. Any mandatory prebid site visit, conference or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. This provision shall not apply to the Regents of the University of California.

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 160

An act to add Section 47607.5 to the Education Code, relating to charter schools.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 47607.5 is added to the Education Code, to read:

47607.5. If either a school district governing board or a county board of education, as a chartering agency, does not grant a renewal to a charter school pursuant to Section 47607, the charter school may submit its application for renewal pursuant to the procedures pertaining to a denial of a petition for establishment of a charter school, as provided in subdivision (j) of Section 47605.

CHAPTER 161

An act to amend Section 84211 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

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

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

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

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

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

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

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

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

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

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

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

(6) The cumulative amount of contributions.

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

(1) His or her full name.

(2) His or her street address.

(3) His or her occupation.

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

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

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

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

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

(1) His or her full name.

(2) His or her street address.

(3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure that is a contribution, the date of the contribution; the cumulative amount of contributions made to a candidate, elected officer, or committee; the full name of the candidate; and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the campaign statement.

(7) In the case of an expenditure made to pay or reimburse the travel expenses or necessary accommodations of a candidate, his or her representative, or a member of the candidate's immediate family, the date, destination, and total expenditure for each trip.

For purposes of subdivisions (h), (i), and (j) only, the terms ''expenditure'' or ''expenditures'' mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k), or (p), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a

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

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

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

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

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

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

(u) If the campaign statement is filed by a committee, as defined in subdivision (b) or (c) of Section 82013, information sufficient to identify the nature and interests of the filer, including:

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

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

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

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

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 81012.6 of the Government Code.

CHAPTER 162

An act to amend Sections 25502.1 and 25503.30 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 25502.1 of the Business and Professions Code is amended 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 product, 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.

SEC. 2. Section 25503.30 of the Business and Professions Code is amended to read:

25503.30. (a) Notwithstanding any other provision of this division, a winegrower or one or more of its direct or indirect subsidiaries of which the winegrower owns not less than a 51-percent interest, who manufactures, produces, bottles, processes, imports, or sells wine and distilled spirits made from grape wine or other grape products only, under a winegrower's license or any other license issued pursuant to this division, or any officer or director of, or any person holding any interest in, those persons may serve as an officer or director of, and may hold the ownership of any interest or any financial or representative relationship in, any on-sale license, or the business conducted under that license, provided that, except in the case of a holder of on-sale general licenses for airplanes and duplicate on-sale general licenses for air common carriers, all of the following conditions are met:

(1) The on-sale licensee purchases all alcoholic beverages sold and served only from California wholesale licensees.

(2) The number of wine items by brand offered for sale by the on-sale licensee that are produced, bottled, processed, imported, or sold by the licensed winegrower or by the subsidiary of which the winegrower owns not less than 51 percent, or by any officer or director of, or by any person holding any interest in, those persons does not exceed 15 percent of the total wine items by brand listed and offered for sale by the on-sale licensee selling and serving that wine. Notwithstanding paragraph (1), wine sold pursuant to this provision may be purchased from a California winegrower so long as the wine purchased is produced or bottled by, or produced and packaged for, the same licensed winegrower that holds an interest in the on-sale license and such direct sales do not involve more than two on-sale licenses in which the winegrower or any person holding an interest in the winegrower holds any interest, directly or indirectly, either individually or in combination or together with each other in the aggregate.

(3) None of the persons specified in this section may have any of the interests specified in this section in more than two on-sale licenses.

(b) The Legislature finds that, while this section provides a limited exception for licensed winegrowers, that limited exception is granted for specific purposes, and that it is also necessary and proper that licensed winegrowers maintain the authority granted under this division to sell wine and brandy to any individual consumer or any person holding a license authorizing the sale of wine or brandy.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and the Legislature intends that this section be construed accordingly.

CHAPTER 163

An act to amend Sections 4852, 5060, 5101, and 5103 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 4852 of the Vehicle Code is amended to read:

4852. (a) License plates issued for motor vehicles, other than motorcycles, shall be rectangular in shape, 12 inches in length and six inches in width. The number and letter characters shall have a minimum height of two and three-quarter inches, a minimum width of one and one-quarter inches, and a minimum spacing between characters of five-sixteenths of an inch.

(b) Motorcycle license plates shall measure seven inches in length and four inches in width, characters shall have a minimum height of one and one-half inches and a minimum width of nine-sixteenths inches, and have a minimum spacing between characters of three-sixteenths of an inch.

SEC. 2. Section 5060 of the Vehicle Code is amended to read:

5060. (a) An organization may apply to the department for participation in a special interest license plate program and the department shall issue special license plates for that program if the issuance of those plates is required by this article, the sponsoring organization complies with the requirements of this section, and the organization meets all of the following criteria:

(1) Qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and subdivision (d) of Section 23701 of the Revenue and Taxation Code.

(2) Submits a financial plan describing the purposes for which the revenues described in paragraph (2) of subdivision (e) will be used.

(3) Submits a design of the organization's proposed special interest license plate that, among other things, provides for the placement of the number and letter characters in a manner that allows for law enforcement to readily identify those characters.

(b) Any person described in Section 5101 may apply for special interest license plates, in lieu of the regular license plates.

(c) The design criteria for a special interest license plate are as follows:

(1) The license plate for a passenger vehicle, commercial vehicle, or trailer shall provide a space not larger than two inches by three inches to the left of the numerical series and a space not larger than five-eighths of an inch in height below the numerical series for a distinctive design, decal, or descriptive message as authorized by this article. The plates shall be issued in sequential numerical order or, pursuant to Section 5103, in a combination of numbers or letters.

(2) Special interest license plates authorized under this article may be issued for use on a motorcycle. That license plate shall contain a five digit configuration issued in sequential numerical order or, pursuant to Section 5103, in a combination of numbers or letters. There shall be a space to the left of the numerical series for a distinctive design or decal and the characters shall contrast sharply with the uniform background color. No motorcycle plate containing a full plate graphic design is authorized. Those particular special interest license plates that were issued prior to the discontinuation provided by this paragraph may continue to be used and attached to the vehicle for which they were issued and may be renewed, retained, or transferred pursuant to this code.

(d) (1) No organization may be included in the program until not less than 7,500 applications for the particular special interest license plates are received. Each organization shall collect and hold applications for the plates. Once the organization has received at least 7,500 applications, it shall submit the applications, along with the necessary fees, to the department. The department shall not issue any special interest license

plate until an organization has received and submitted to the department not less than 7,500 applications for that particular special interest license plate within the time period prescribed in this section. Advanced payment to the department by an organization representing the department's estimated or actual administrative costs associated with the issuance of a particular special interest license plate shall not constitute compliance with this requirement. The organization shall have 12 months, following the effective date of the enactment of the specific legislation enabling the organization to participate in this program, to receive the required number of applications. If, after that 12 months, 7,500 applications have not been received, the organization shall immediately do either of the following:

(A) Refund to all applicants any fees or deposits that have been collected.

(B) Contact the department to indicate the organization's intent to undertake collection of additional applications and fees or deposits for an additional period, not to exceed 12 months, in order to obtain the minimum 7,500 applications. If an organization elects to exercise the option under this paragraph, it shall contact each applicant who has submitted an application with the appropriate fees or deposits to determine if the applicant wishes a refund of fees or deposits or requests the continuance of the holding of the application and fees or deposits until that time that the organization has received 7,500 applications. The organization shall refund the fees or deposits to any applicant so requesting. In no event shall an organization collect and hold applications for a period exceeding 24 months following the date of authorization as described in paragraph (2) of subdivision (a).

(C) Sequential plate fees shall be paid for the original issuance, renewal, retention, replacement, or transfer of the special interest license plate as determined by the organization and authorized by department's regulations. Those plates containing a personalized message are subject to the fees required pursuant to Sections 5106 and 5108 in addition to any fees required by the special interest license plate program.

(2) (A) If the number of currently outstanding and valid special interest license plates in any particular program provided for in this article is less than 7,500, the department shall notify the sponsoring organization of that fact and shall inform the organization that if that number is less than 7,500 one year from the date of that notification, the department will no longer issue or replace those special interest license plates.

(B) Those particular special interest license plates that were issued prior to the discontinuation provided by subparagraph (A) may continue to be used and attached to the vehicle for which they were issued and may be renewed, retained, or transferred pursuant to this code.

(e) (1) The department shall deduct its costs to develop and administer the special interest license plate program from the revenues collected for the plates.

(2) The department shall deposit the remaining revenues from the original issuance, renewal, retention, replacement, or transfer of the special interest license plate in a fund which shall be established by the Controller.

(f) When payment of renewal fees is not required as specified in Section 4000, or when a person determines to retain the special interest license plate upon a sale, trade, or other release of the vehicle upon which the plate has been displayed, the person shall notify the department and the person may retain and use the plate as authorized by department regulations.

(g) An organization that is eligible to participate in a special interest license plate program pursuant to this article and receives funds from the additional fees collected from the sale of special license plates shall not expend annually more than 25 percent of those funds on administrative costs, marketing, or other promotional activities associated with encouraging application for, or renewal of, the special license plates.

(h) (1) Every organization authorized under this article to offer special interest license plates shall prepare and submit an annual accounting report to the department by June 30. The report shall include an accounting of all revenues and expenditures associated with the special interest license plate program.

(2) If an organization submits a report pursuant to paragraph (1) indicating that the organization violated the expenditure restriction set forth in subdivision (g), the department shall immediately cease depositing fees in the fund created by the Controller for that organization under paragraph (2) of subdivision (e) and, instead, shall deposit those fees that would have otherwise been deposited in that fund in a separate fund created by the Controller, which fund is subject to appropriation by the Legislature. The department shall immediately notify the organization of this course of action. The depositing of funds in the account established pursuant to this paragraph shall continue until the organization demonstrates to the satisfaction of the department that the organization is in compliance or will comply with the requirements of subdivision (g). If one year from the date that the organization receives the notice described in this paragraph, the organization is still unable to satisfactorily demonstrate to the department that it is in compliance or will comply with the requirements of subdivision (g), the department shall no longer issue or replace those special interest license plates associated with that organization. Those particular special interest license plates that were issued prior to the discontinuation provided by this paragraph may continue to be used and attached to the vehicle for

which they were issued and may be renewed, retained, or transferred pursuant to this code.

(3) Upon receiving the reports required under paragraph (1), the department shall prepare and transmit an annual consolidated report to the Legislature containing the revenue and expenditure data.

SEC. 3. Section 5101 of the Vehicle Code is amended to read:

5101. Any person who is the registered owner or lessee of a passenger vehicle, commercial vehicle, motorcycle, or trailer registered with the department, or who makes application for an original registration or renewal registration of any vehicle, may, upon payment of the fee prescribed in Section 5106, apply to the department for environmental license plates, in the manner prescribed in Section 5105, which plates shall be affixed to the passenger vehicle, commercial vehicle, motorcycle, or trailer for which registration is sought in lieu of the regular license plates.

SEC. 4. Section 5103 of the Vehicle Code is amended to read:

5103. ''Environmental license plates,'' as used in this article, means license plates that have displayed upon them the registration number assigned to the passenger vehicle, commercial vehicle, motorcycle, or trailer for which a registration number was issued in a combination of letters or numbers, or both, requested by the owner or lessee of the vehicle.

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 164

An act to amend Section 61384 of, and to repeal Sections 61371, 61371.5, 61372, 61373, 61375, 61375.5, 61376, 61377, 61378, 61378.5, and 61379 of, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 61371 of the Food and Agricultural Code is repealed.

SEC. 2. Section 61371.5 of the Food and Agricultural Code is repealed.

SEC. 3. Section 61372 of the Food and Agricultural Code is repealed.

SEC. 4. Section 61373 of the Food and Agricultural Code is repealed.

SEC. 5. Section 61375 of the Food and Agricultural Code is repealed.

SEC. 6. Section 61375.5 of the Food and Agricultural Code is repealed.

SEC. 7. Section 61376 of the Food and Agricultural Code is repealed.

SEC. 8. Section 61377 of the Food and Agricultural Code is repealed.

SEC. 9. Section 61378 of the Food and Agricultural Code is repealed.

SEC. 10. Section 61378.5 of the Food and Agricultural Code is repealed.

SEC. 11. Section 61379 of the Food and Agricultural Code is repealed.

SEC. 12. Section 61384 of the Food and Agricultural Code is amended to read:

61384. (a) The sale by any retailer, wholesale customer, manufacturer, or distributor, including any producer-distributor or nonprofit cooperative association acting as a distributor, of milk, cream, or any dairy product at less than cost is an unlawful practice.

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

(1) ''Cost,'' as applied to manufacturers and distributors, means the total consideration paid or exchanged for raw product, plus the total expense incurred for manufacturing, processing, handling, sale, and delivery.

(2) ''Cost,'' as applied to wholesale customers, means the invoice price charged to the wholesale customer, or the expense of replacement, whichever is lower, plus the wholesale customer's cost of doing business.

(3) ''Cost of doing business,'' as applied to wholesale customers, means a wholesale customer's total operating expense divided by the customer's total sales income.

(4) (A) Except as provided in subparagraph (B), ''total consideration paid or exchanged for raw product,'' in the case of market milk or market cream, means the applicable minimum price of the market milk or market cream, if any, payable by distributors to producers pursuant to stabilization or marketing plans in effect pursuant to Chapter 2 (commending with Section 61801).

(B) Notwithstanding subparagraph (A), in situations involving sales on a bid basis to public agencies or institutions, the definition in subparagraph (A) shall only apply to market milk or market cream that is utilized for class 1 purposes, as those purposes are defined in Chapter 2 (commencing with Section 61801).

(c) Proof of cost, based on audits or surveys conducted in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board, and modified, if necessary, to satisfy the requirements of this section, shall establish a rebuttable presumption of that cost at the time of the transaction of any sale. This presumption is a presumption affecting the burden of proof, but it does not apply in a criminal action.

(d) Nothing in this section shall be deemed to prohibit any of the following activities:

(1) The meeting, in good faith, of a lawful competitive price or a lawful competitive condition.

(2) A distributor's action in making conditional sales of equipment or other property, extending credit for merchandise purchased, or paying a customer's obligations not otherwise prohibited by this chapter to another distributor in connection with the transfer of the customer's business from the latter to the former.

(e) The secretary shall establish, by regulation pursuant to Section 61341, the procedures which shall be used to make the determinations required by this section, including the following:

(1) Any modifications to the generally accepted accounting principles described in subdivision (c) necessary to satisfy the requirements of this section.

(2) Procedures for evaluating efforts to meet lawful competitive prices or conditions.

(3) Other procedures necessary or appropriate to facilitate the application or enforcement of this section.

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 165

An act to add Section 1463.13 to the Penal Code, relating to alcohol and drug assessment programs.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 1463.13 is added to the Penal Code, to read:

1463.13. (a) Each county may develop, implement, operate, and administer an alcohol and drug problem assessment program for persons convicted of a crime in which the court finds that alcohol or substance abuse was substantially involved in the commission of the crime. This program may be operated in coordination with the program developed under Article 6 (commencing with Section 23645) of Chapter 4 of Division 11.5 of the Vehicle Code.

(1) A portion of any program established pursuant to this section shall include a face-to-face interview with each program participant.

(2) No person convicted of driving under the influence of alcohol or a controlled substance or a related offense shall participate in any program established pursuant to this section.

(b) An alcohol and drug problem assessment report shall be made on each person who participates in the program. The report may be used to determine the appropriate sentence for the person. The report shall be submitted to the court within 14 days of the completion of the assessment.

(c) In any county in which the county operates an alcohol and drug problem assessment program under this section, a court may order any person convicted of a crime that involved the use of drugs or alcohol, including any person who is found to have been under the influence of drugs or alcohol during the commission of the crime, to participate in the assessment program.

(d) Notwithstanding any other provision of law, in addition to any other fine or penalty assessment, there shall be levied an assessment of not more than one hundred fifty dollars ($150) upon every fine, penalty, or forfeiture imposed and collected by the courts for a public offense wherein the court orders the offender to participate in a county alcohol and drug problem assessment program. The assessment shall only be

levied in a county upon the adoption of a resolution by the board of supervisors of the county making that county subject to this section.

(e) The court shall determine if the defendant has the ability to pay the assessment. If the court determines that the defendant has the ability to pay the assessment then the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner which the court determines is reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in victim restitution.

(f) Notwithstanding Section 1463 or 1464 of the Penal Code or any other provision of law, all moneys collected pursuant to this section shall be deposited in a special account in the county treasury and shall be used exclusively to pay for the costs of developing, implementing, operating, maintaining, and evaluating alcohol and drug problem assessment and monitoring programs.

(g) On January 15 of each year, the treasurer of each county that administers an alcohol and drug problem assessment and monitoring program shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys to the general fund of the county.

CHAPTER 166

An act relating to the payment of judgments and settlement claims against the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. The sum of three million five hundred forty-five thousand dollars ($3,545,000) is hereby appropriated from the following specified funds and accounts to the Attorney General to pay judgment and settlement claims in accordance with the following schedule:

(a) Six hundred ninety-five thousand dollars ($695,000) from the General Fund for the following settlements:

(1) Four hundred thousand dollars ($400,000) for the settlement reached in the case of Reclaimed Island Lands Co. v. Reclamation

District No. 2107, et al. (San Joaquin County Superior Court, Case No. 004313).

(2) Two hundred ninety-five thousand dollars ($295,000) for the settlement reached in the case of Gary D. Hori, et al. v. Commission on State Mandates, et al. (Sacramento County Superior Court, Case No. 99AS01517).

(b) Two million eight hundred fifty thousand dollars ($2,850,000) from the Motor Vehicle Account in the State Transportation Fund for the following settlement and judgment:

(1) Three hundred fifty thousand dollars ($350,000) for the settlement reached in the case of Matthew Newton v. State of California (Orange County Superior Court-Harbor, Case No. 789858).

(2) Two million five hundred thousand dollars ($2,500,000) for the judgment rendered in the case of Figenshu v. California Highway Patrol, et al. (Los Angeles County Superior Court, Case No. SC02167).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay judgments and settlement claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 167

An act to repeal Section 2357 of the Fish and Game Code, relating to fish.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 2357 of the Fish and Game Code is repealed.

CHAPTER 168

An act to amend Section 53684 of the Government Code, relating to local agency funds.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 53684 of the Government Code is amended to read:

53684. (a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may, upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Section 53601 or 53635.

(b) The county treasurer shall, at least quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool. In apportioning and distributing that interest or increment, the county treasurer may use the cash method, the accrual method, or any other method in accordance with generally accepted accounting principles.

Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency and to the total average daily balance of deposits in the investment pool.

(c) The county treasurer shall disclose to each local agency that invests funds pursuant to this section the method of accounting used, whether cash, accrual, or other, and shall notify each local agency of any proposed changes in the accounting method at least 30 days prior to the date on which the proposed changes take effect.

(d) The treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency pursuant to the procedure specified in Section 27136.

(e) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(f) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(g) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Section 51301 for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of

a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to Section 51301.

CHAPTER 169

An act to amend, add, and repeal Sections 32121 and 32126 of the Health and Safety Code, relating to local health care districts.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 32121 of the Health and Safety Code, as amended by Chapter 525 of the Statutes of 1999, is amended to read:

32121. Each local district shall have and may exercise the following powers:

(a) To have and use a corporate seal and alter it at its pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, to perform the functions in respect to the legal affairs of the district as the board may direct, and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for legal advice and assistance.

(g) To employ any officers and employees, including architects and consultants, the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the health care facility administrator, secretary, and other officers and employees of any health care facilities of the district, to establish offices as may be appropriate and to appoint board members or employees to those offices, and to determine the number of, and appoint, all officers and employees and to fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.

(i) To do any and all things that an individual might do that are necessary for, and to the advantage of, a health care facility and a nurses' training school, or a child care facility for the benefit of employees of the health care facility or residents of the district.

(j) To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities at any location within or without the district for the benefit of the district and the people served by the district.

''Health care facilities,'' as used in this subdivision, means those facilities defined in subdivision (b) of Section 32000.1 and specifically includes freestanding chemical dependency recovery units. ''Health facilities,'' as used in this subdivision, may also include those facilities defined in subdivision (d) of Section 15432 of the Government Code.

(k) To do any and all other acts and things necessary to carry out this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, aftercare, and any other health care services provider, groups, and organizations that are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the health care district.

(p) (1) To transfer, at fair market value, any part of its assets to one or more corporations to operate and maintain the assets. A transfer

pursuant to this paragraph shall be deemed to be at fair market value if an independent consultant, with expertise in methods of appraisal and valuation and in accordance with applicable governmental and industry standards for appraisal and valuation, determines that fair and reasonable consideration is to be received by the district for the transferred district assets. Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(2) To transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district, including without limitation real property, equipment, and other fixed assets, current assets, and cash, relating to the operation of the district's health care facilities to one or more nonprofit corporations to operate and maintain the assets.

(A) A transfer of 50 percent or more of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if all of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least five properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement provides that the hospital district shall approve all initial board members of the nonprofit corporation and any subsequent board members as may be specified in the transfer agreement.

(iii) The transfer agreement provides that all assets transferred to the nonprofit corporation, and all assets accumulated by the corporation during the term of the transfer agreement arising out of, or from, the operation of the transferred assets, are to be transferred back to the district upon termination of the transfer agreement, including any extension of the transfer agreement.

(iv) The transfer agreement commits the nonprofit corporation to operate and maintain the district's health care facilities and its assets for the benefit of the communities served by the district.

(v) The transfer agreement requires that any funds received from the district at the outset of the agreement or any time thereafter during the term of the agreement be used only to reduce district indebtedness, to acquire needed equipment for the district health care facilities, to operate, maintain, and make needed capital improvements to the district's health care facilities, to provide supplemental health care services or facilities for the communities served by the district, or to conduct other activities that would further a valid public purpose if undertaken directly by the district.

(B) A transfer of 33 percent or more but less than 50 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement meets all of the requirements of clauses (ii) to (v), inclusive, of subparagraph (A).

(C) A transfer of 10 percent or more but less than 33 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement meets all of the requirements of clauses (iii) to (v), inclusive, of subparagraph (A).

(D) Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor,

the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(E) Notwithstanding the other provisions of this paragraph, a hospital district shall not transfer any portion of its assets to a private nonprofit organization that is owned or controlled by a religious creed, church, or sectarian denomination in the absence of adequate consideration.

(3) If the district board has previously transferred less than 50 percent of the district's assets pursuant to this subdivision, before any additional assets are transferred, the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets of the district.

(4) The amendments to this subdivision made during the 1991–92 Regular Session, and the amendments made to this subdivision and to Section 32126 made during the 1993–94 Regular Session, shall only apply to transfers made on or after the effective dates of the acts amending this subdivision. The amendments to this subdivision made during those sessions shall not apply to any of the following:

(A) A district that has discussed and adopted a board resolution, prior to September 1, 1992, that authorizes the development of a business plan for an integrated delivery system.

(B) A lease agreement, transfer agreement, or both between a district and a nonprofit corporation that were in full force and effect as of September 1, 1992, for as long as that lease agreement, transfer agreement, or both remain in full force and effect.

(5) Notwithstanding paragraph (4), if substantial amendments are proposed to be made to a transfer agreement described in subparagraph (A) or (B) of paragraph (4), the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(6) Notwithstanding paragraphs (4) and (5), a transfer agreement described in subparagraph (A) or (B) of paragraph (4) that provided for the transfer of less than 50 percent of a district's assets shall be subject to the requirements of subdivision (p) of Section 32121 when subsequent amendments to that transfer agreement would result in the transfer, in sum or by increment, of 50 percent or more of a district's assets to the nonprofit corporation.

(7) For purposes of this subdivision, a ''transfer'' means the transfer of ownership of the assets of a district. A lease of the real property or the

tangible personal property of a district shall not be subject to this subdivision except as specified in Section 32121.4 and as required under Section 32126.

(8) Districts that request a special election pursuant to paragraph (1) or (2) shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(9) Nothing in this section, including subdivision (j), shall be construed to permit a local district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is not located within the boundaries of the district.

(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:

(A) The district has entered into a loan that is insured by the State of California under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107.

(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.

(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree that the transfer of some or all of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.

(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 Division 2 of Title 5 of the Government Code). The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.

(11) If a transfer under paragraph (10) is a lease, the lease shall provide that the assets shall revert to the district at the conclusion of the leasehold interest. If the transfer is a sale, the proceeds shall be used first to retire the obligation insured by the office, then to retire any other debts of the district. After providing for debts, any remaining funds shall revert to the district.

(q) To contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(r) To establish, maintain, operate, participate in, or manage capitated health care service plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Managed Care, at any location within or without the district for the benefit of residents of communities served by the district. However, that activity shall not be deemed to result in, or constitute, the giving or lending of the district's credit, assets, surpluses, cash, or tangible goods to, or in aid of, any person, association, or corporation in violation of Section 6 of Article XVI of the California Constitution.

Nothing in this section shall be construed to authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

Any agreement to provide health care coverage that is a health care service plan, as defined in subdivision (f) of Section 1345, shall be subject to Chapter 2.2 (commencing with Section 1340) of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

A district shall not provide health care coverage for any employee of an employer operating within the communities served by the district, unless the Legislature specifically authorizes, or has authorized in this section or elsewhere, the coverage.

Nothing in this section shall be construed to authorize any district to contribute its facilities to any joint venture that could result in transfer of the facilities from district ownership.

(s) To provide health care coverage to members of the district's medical staff, employees of the medical staff members, and the dependents of both groups, on a self-pay basis.

(t) 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. 2. Section 32121 of the Health and Safety Code, as added by Section 2 of Chapter 18 of the Statutes of 1998, is repealed.

SEC. 3. Section 32121 is added to the Health and Safety Code, to read:

32121. Each local district shall have and may exercise the following powers:

(a) To have and use a corporate seal and alter it at its pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, to perform the functions in respect to the legal affairs of the district as the board may direct, and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for legal advice and assistance.

(g) To employ any officers and employees, including architects and consultants, the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the health care facility administrator, secretary, and other officers and employees of any health care facilities of the district, to establish offices as may be appropriate and to appoint board members or employees to those offices, and to determine the number of, and appoint, all officers and employees and to fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.

(i) To do any and all things that an individual might do that are necessary for, and to the advantage of, a health care facility and a nurses' training school, or a child care facility for the benefit of employees of the health care facility or residents of the district.

(j) To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities at any location within or without the district for the benefit of the district and the people served by the district.

''Health care facilities,'' as used in this subdivision, means those facilities defined in subdivision (b) of Section 32000.1 and specifically includes freestanding chemical dependency recovery units. ''Health facilities,'' as used in this subdivision, may also include those facilities defined in subdivision (d) of Section 15432 of the Government Code.

(k) To do any and all other acts and things necessary to carry out this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, aftercare, and any other health care services provider, groups, and organizations that are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the health care district.

(p) (1) To transfer, at fair market value, any part of its assets to one or more nonprofit corporations to operate and maintain the assets. A transfer pursuant to this paragraph shall be deemed to be at fair market value if an independent consultant, with expertise in methods of appraisal and valuation and in accordance with applicable governmental and industry standards for appraisal and valuation, determines that fair and reasonable consideration is to be received by the district for the transferred district assets. Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(2) To transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district, including without limitation real property, equipment, and other fixed assets, current assets, and cash, relating to the operation of

the district's health care facilities to one or more nonprofit corporations to operate and maintain the assets.

(A) A transfer of 50 percent or more of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if all of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least five properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement provides that the hospital district shall approve all initial board members of the nonprofit corporation and any subsequent board members as may be specified in the transfer agreement.

(iii) The transfer agreement provides that all assets transferred to the nonprofit corporation, and all assets accumulated by the corporation during the term of the transfer agreement arising out of, or from, the operation of the transferred assets, are to be transferred back to the district upon termination of the transfer agreement, including any extension of the transfer agreement.

(iv) The transfer agreement commits the nonprofit corporation to operate and maintain the district's health care facilities and its assets for the benefit of the communities served by the district.

(v) The transfer agreement requires that any funds received from the district at the outset of the agreement or any time thereafter during the term of the agreement be used only to reduce district indebtedness, to acquire needed equipment for the district health care facilities, to operate, maintain, and make needed capital improvements to the district's health care facilities, to provide supplemental health care services or facilities for the communities served by the district, or to conduct other activities that would further a valid public purpose if undertaken directly by the district.

(B) A transfer of 33 percent or more but less than 50 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement meets all of the requirements of clauses (ii) to (v), inclusive, of subparagraph (A).

(C) A transfer of 10 percent or more but less than 33 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(ii) The transfer agreement meets all of the requirements of clauses (iii) to (v), inclusive, of subparagraph (A).

(D) Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(E) Notwithstanding the other provisions of this paragraph, a hospital district shall not transfer any portion of its assets to a private nonprofit organization that is owned or controlled by a religious creed, church, or sectarian denomination in the absence of adequate consideration.

(3) If the district board has previously transferred less than 50 percent of the district's assets pursuant to this subdivision, before any additional assets are transferred, the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets of the district.

(4) The amendments to this subdivision made during the 1991–92 Regular Session, and the amendments made to this subdivision and to Section 32126 made during the 1993–94 Regular Session, shall only apply to transfers made on or after the effective dates of the acts amending this subdivision. The amendments to this subdivision made during those sessions shall not apply to any of the following:

(A) A district that has discussed and adopted a board resolution, prior to September 1, 1992, that authorizes the development of a business plan for an integrated delivery system.

(B) A lease agreement, transfer agreement, or both between a district and a nonprofit corporation that were in full force and effect as of September 1, 1992, for as long as that lease agreement, transfer agreement, or both remain in full force and effect.

(5) Notwithstanding paragraph (4), if substantial amendments are proposed to be made to a transfer agreement described in subparagraph (A) or (B) of paragraph (4), the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(6) Notwithstanding paragraphs (4) and (5), a transfer agreement described in subparagraph (A) or (B) of paragraph (4) that provided for the transfer of less than 50 percent of a district's assets shall be subject to the requirements of subdivision (p) of Section 32121 when subsequent amendments to that transfer agreement would result in the transfer, in sum or by increment, of 50 percent or more of a district's assets to the nonprofit corporation.

(7) For purposes of this subdivision, a ''transfer'' means the transfer of ownership of the assets of a district. A lease of the real property or the tangible personal property of a district shall not be subject to this subdivision except as specified in Section 32121.4 and as required under Section 32126.

(8) Districts that request a special election pursuant to paragraph (1) or (2) shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(9) Nothing in this section, including subdivision (j), shall be construed to permit a local district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility that is not located within the boundaries of the district.

(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:

(A) The district has entered into a loan that is insured by the State of California under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107.

(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.

(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree that the transfer of some or all of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.

(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 Division 2 of Title 5 of the Government Code). The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.

(11) If a transfer under paragraph (10) is a lease, the lease shall provide that the assets shall revert to the district at the conclusion of the leasehold interest. If the transfer is a sale, the proceeds shall be used first to retire the obligation insured by the office, then to retire any other debts of the district. After providing for debts, any remaining funds shall revert to the district.

(q) To contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(r) To establish, maintain, operate, participate in, or manage capitated health care service plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Managed Care, at any location within or without the district for the benefit of residents of communities served by the district. However, that activity shall not be deemed to result in, or constitute, the giving or lending of the district's credit, assets, surpluses, cash, or tangible goods to, or in aid of, any person, association, or corporation in violation of Section 6 of Article XVI of the California Constitution.

Nothing in this section shall be construed to authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

Any agreement to provide health care coverage that is a health care service plan, as defined in subdivision (f) of Section 1345, shall be

subject to Chapter 2.2 (commencing with Section 1340) of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

A district shall not provide health care coverage for any employee of an employer operating within the communities served by the district, unless the Legislature specifically authorizes, or has authorized in this section or elsewhere, the coverage.

Nothing in this section shall be construed to authorize any district to contribute its facilities to any joint venture that could result in transfer of the facilities from district ownership.

(s) To provide health care coverage to members of the district's medical staff, employees of the medical staff members, and the dependents of both groups, on a self-pay basis.

(t) This section shall become operative on January 1, 2006.

SEC. 4. Section 32126 of the Health and Safety Code, as amended by Section 3 of Chapter 18 of the Statutes of 1998, is amended to read:

32126. (a) The board of directors may provide for the operation and maintenance through tenants of the whole or any part of any hospital acquired or constructed by it pursuant to this division, and for that purpose may enter into any lease agreement that it believes will best serve the interest of the district. A lease entered into with one or more corporations for the operation of 50 percent or more of the district's hospital, or that is part of, or contingent upon, a transfer of 50 percent or more of the district's assets, in sum or by increment, as described in subdivision (p) of Section 32121, shall be subject to the requirements of subdivision (p) of Section 32121. Any lease for the operation of any hospital shall require the tenant or lessee to conform to, and abide by, Section 32128. No lease for the operation of an entire hospital shall run for a term in excess of 30 years. No lease for the operation of less than an entire hospital shall run for a term in excess of 10 years.

(b) Notwithstanding any other provision of law, a sublease, an assignment of an existing lease, or the release of a tenant or lessee from obligations under an existing lease in connection with an assignment of an existing lease shall not be subject to the requirements of subdivision (p) of Section 32121 so long as all of the following conditions are met:

(1) The sublease or assignment of the existing lease otherwise remains in compliance with subdivision (a).

(2) The district board determines that the total consideration that the district shall receive following the assignment or sublease, or as a result thereof, taking into account all monetary and other tangible and intangible consideration to be received by the district including, without limitation, all benefits to the communities served by the district, is no less than the total consideration that the district would have received under the existing lease.

(3) The existing lease was entered into on or before July 1, 1984, upon approval of the board of directors following solicitation and review of no less than five offers from prospective tenants.

(4) If substantial amendments are made to an existing lease in connection with the sublease or assignment of that existing lease, the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) 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. Section 32126 of the Health and Safety Code, as added by Section 4 of Chapter 18 of the Statutes of 1998, is repealed.

SEC. 6. Section 32126 is added to the Health and Safety Code, to read:

32126. (a) The board of directors may provide for the operation and maintenance through tenants of the whole or any part of any hospital acquired or constructed by it pursuant to this division, and for that purpose may enter into any lease agreement that it believes will best serve the interest of the district. A lease entered into with one or more nonprofit corporations for the operation of 50 percent or more of the district's hospital, or that is part of, or contingent upon, a transfer of 50 percent or more of the district's assets, in sum or by increment, as described in subdivision (p) of Section 32121, shall be subject to the requirements of subdivision (p) of Section 32121. Any lease for the operation of any hospital shall require the tenant or lessee to conform to, and abide by, Section 32128. No lease for the operation of an entire hospital shall run for a term in excess of 30 years. No lease for the operation of less than an entire hospital shall run for a term in excess of 10 years.

(b) Notwithstanding any other provision of law, a sublease, an assignment of an existing lease, or the release of a tenant or lessee from obligations under an existing lease in connection with an assignment of an existing lease shall not be subject to the requirements of subdivision (p) of Section 32121 so long as all of the following conditions are met:

(1) The sublease or assignment of the existing lease otherwise remains in compliance with subdivision (a).

(2) The district board determines that the total consideration that the district shall receive following the assignment or sublease, or as a result thereof, taking into account all monetary and other tangible and intangible consideration to be received by the district including, without limitation, all benefits to the communities served by the district, is no

less than the total consideration that the district would have received under the existing lease.

(3) The existing lease was entered into on or before July 1, 1984, upon approval of the board of directors following solicitation and review of no less than five offers from prospective tenants.

(4) If substantial amendments are made to an existing lease in connection with the sublease or assignment of that existing lease, the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) This section shall become operative on January 1, 2006.

SEC. 7. (a) On or before January 1, 2005, the Legislative Analyst shall report to the Legislature regarding the transfer of any assets by a local health care district to a corporation requiring a vote of the people pursuant to subdivision (p) of Section 32121 of the Health and Safety Code.

(b) The report shall include, but not be limited to the following:

(1) A description of each transfer that occurred on or after April 14, 1998.

(2) An assessment of how each transfer affected access to health care by the residents of that district.

(3) A description and assessment of legal issues that arose because of these transfers including, but not limited to, formal legal opinions and legal actions.

(4) Recommendations to the Legislature for extending or deleting the repeal date of Section 32121 of the Health and Safety Code contained in subdivision (t) of that section.

(5) Any additional descriptions, assessments, or recommendations that the Legislative Analyst deems appropriate.

(c) In researching the report required by this section, the Legislature encourages the Legislative Analyst to consult with individuals, corporations, public agencies, and groups that may be knowledgeable about the transfer of assets by local health care districts to corporations.

CHAPTER 170

An act to amend Sections 1215.1 and 1215.5 of the Insurance Code, relating to insurers.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 1215.1 of the Insurance Code is amended to read:

1215.1. (a) Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries subject to the limitations of this section.

(b) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of this chapter, a domestic insurer may also do one or more of the following:

(1) Invest in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of 10 percent of the insurer's assets or 50 percent of the insurer's surplus as regards policyholders. However, after these investments, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of these investments, there shall be excluded investments in insurance subsidiaries, and there shall be included (A) total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and (B) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation.

''Insurance subsidiary'' is an insurer that is organized within the United States and is controlled, directly or indirectly, by a reporting insurer subject to this article. For purposes of this paragraph, ''investments in insurance subsidiaries'' shall include the following:

(A) Any direct investment in an insurance subsidiary.

(B) The insurer's proportionate share of any investment in an insurance subsidiary held by any subsidiary of the insurer. This shall be calculated by multiplying the amount of the subsidiary's investment in the insurance subsidiary by the insurer's percentage of ownership of the subsidiary.

(2) If the insurer's total liabilities, as calculated for National Association of Insurance Commissioners' annual statement purposes, are less than 10 percent of assets, invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries. However, after this investment the insurer's surplus as regards policyholders, considering this investment as if it were a

disallowed asset, shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(3) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, provided, that each subsidiary agrees to limit its investments in any asset so that these investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (1) of this subdivision or in this chapter applicable to the insurer. For the purpose of this paragraph, ''the total investment of the insurer'' shall include (i) any direct investment by the insurer in an asset, and (ii) the insurer's proportionate share of any investment of an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of that subsidiary.

(4) With the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, provided that after this investment the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(5) Invest any amount in the common stock, preferred stock, debt obligations, or other securities of any subsidiary exclusively engaged in holding title to or holding title to and managing or developing real or personal property, if after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(c) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subdivision (b) of this section shall neither limit nor be subject to any of the otherwise applicable authorizations, restrictions, or prohibitions contained in this part applicable to such investments of insurers.

(d) Whether any investment pursuant to subdivision (b) of this section meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the date they were made.

(e) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control, or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of this part.

SEC. 2. Section 1215.5 of the Insurance Code is amended to read:

1215.5. (a) Transactions by registered insurers with their affiliates are subject to the following standards:

(1) The terms shall be fair and reasonable.

(2) Charges or fees for services performed shall be reasonable.

(3) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

(4) The books, accounts, and records of each party to all transactions shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions, including accounting information that is necessary to support the reasonableness of the charges or fees to the parties.

(5) The insurer's policyholder's surplus following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer or commercially domiciled insurer, as defined in Section 1215.13, and any person in its holding company system, may be entered into only if the insurer has notified the commissioner in writing of its intention to enter into the transaction at least 30 days prior thereto, or a shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period. The commissioner shall require the payment of one thousand eight hundred eighty-nine dollars ($1,889) as a fee for filings under this subdivision. The payment shall accompany the filing.

(1) Sales, purchases, exchanges, loans, extensions of credit, or investments, if the transactions are equal to or exceed:

(A) For a nonlife insurer, the lessor of 3 percent of the insurer's admitted assets or 25 percent of the policyholder's surplus as of the preceding December 31st.

(B) For a life insurer, 3 percent of the insurer's admitted assets as of the preceding December 31st.

(2) Loans or extensions of credit to a person who is not an affiliate, if made with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer, if the transactions are equal to or exceed:

(A) For a nonlife insurer, the lesser of 3 percent of the insurer's admitted assets or 25 percent of the policyholder's surplus as of the preceding December 31st.

(B) For a life insurer, 3 percent of the insurer's admitted assets as of the preceding December 31st.

(3) Reinsurance agreements or modifications thereto in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds 5 percent of the insurer's policyholder's surplus, as of the preceding December 31st, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer.

(4) All management agreements, service contracts, and cost-sharing arrangements. However, subscription agreements or powers of attorney executed by subscribers of a reciprocal or interinsurance exchange are not required to be reported pursuant to this section if the form of the agreement was in use before 1943 and was not amended in any way to modify payments, fees, or waivers of fees or otherwise substantially amended after 1943. Payment or waiver of fees or other amounts due under subscription agreements or powers of attorney forms that were in use before 1943 and that have not been amended in any way to modify payments, fees, or waiver of fees, or otherwise substantially amended after 1943 shall not be subject to regulation pursuant to paragraph (2) of subdivision (a).

(5) Guarantees when initiated or made by a domestic or commercially domiciled insurer; provided, however, that a guarantee that is quantifiable as to amount is not subject to the notice requirements of this paragraph unless it exceeds the lesser of one-half of 1 percent of the insurer's admitted assets or 10 percent of surplus as regards policyholders as of the 31st day of December next preceding. Further, all guarantees that are not quantifiable as to amount are subject to the notice requirements of this paragraph.

(6) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with its present holdings in those investments, exceeds 2.5 percent of the insurer's policyholder's surplus. Direct or indirect acquisitions or investments in subsidiaries acquired under Section 1215.1, or in nonsubsidiary insurance affiliates that are subject to the provisions of this article, or in subsidiaries acquired pursuant to Section 1199, are exempt from this requirement.

(7) Any material transactions, specified by regulation, that the commissioner determines may adversely affect the interests of the insurer's policyholders.

(c) A domestic insurer may not enter into transactions that are part of a plan or series of transactions with persons within the holding company system if the purpose of those transactions is to avoid the statutory threshold amount and thus avoid review. If the commissioner determines that separate transactions were entered into over any 12-month period to

avoid review, the commissioner may exercise his or her authority under Section 1215.10.

(d) The commissioner, in reviewing transactions under subdivision (b), shall consider whether the transactions comply with the standards set forth in subdivision (a) and whether they may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within 30 days of any investment by the insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds 10 percent of the corporation's voting securities.

(f) For purposes of this article, in determining whether an insurer's policyholder's surplus is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer, as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance.

(3) The number and size of risks insured in each line of business.

(4) The extent of the geographical dispersion of the insurer's insured risks.

(5) The nature and extent of the insurer's reinsurance program.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio.

(7) The recent past and projected future trend in the size of the insurer's investment portfolio.

(8) The recent past and projected future trend in the size of the insurer's surplus, and the policyholder's surplus maintained by other comparable insurers.

(9) The adequacy of the insurer's reserves.

(10) The quality and liquidity of investments in subsidiaries made under Section 1215.1. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of the policyholder's surplus whenever, in his or her judgment, the investment so warrants.

(11) The quality of the company's earnings and the extent to which the reported earnings include extraordinary accounting items.

(g) No insurer subject to registration under Section 1215.4 shall pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until 30 days after the commissioner has received notice of the declaration thereof and has approved the payment or has not, within the 30-day period, disapproved the payment.

For purposes of this section, an extraordinary dividend or distribution is any dividend or distribution which, together with other dividends or distributions made within the preceding 12 months, exceeds the greater of (1) 10 percent of the insurer's policyholder's surplus as of the preceding December 31st, or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, for the 12-month period ending the preceding December 31st.

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval. The declaration confers no rights upon stockholders until the commissioner has approved the payment of the dividend or distribution or until the commissioner has not disapproved the payment within the 30-day period referred to in this subdivision.

(h) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject to by law, and the insurer shall be managed to ensure its separate operating identity consistent with the provisions of this article. However, nothing in this article shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subdivision (a).

(i) The provisions of this section do not apply to any insurer, information, or transaction exempted by the commissioner.

CHAPTER 171

An act to amend Sections 98 and 98.02 of the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 98 of the Revenue and Taxation Code is amended to read:

98. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of ''property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year,'' an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each 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 fiscal year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the ''amount of property tax revenue allocated in the prior fiscal year.''

(c) ''TEA formula'' means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) ''Qualifying city'' means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year

that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) (A) Except as otherwise provided in subparagraph (B), the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this paragraph shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the

result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(B) Except in the County of Santa Clara, no reduction shall be made pursuant to subparagraph (A) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(3) (A) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district, that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(C) Notwithstanding subparagraph (A), commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(4) Any amount of property tax revenues that has been exchanged pursuant to Section 56842 of the Government Code between the City of Rancho Mirage and a community services district, the formation of which was initiated on or after March 6, 1997, pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code.

(g) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a ''services for revenue agreement'' means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(h) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(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, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

SEC. 1.5. Section 98 of the Revenue and Taxation Code is amended to read:

98. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of ''property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year,'' an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each 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 fiscal year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its

predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the ''amount of property tax revenue allocated in the prior fiscal year.''

(c) ''TEA formula'' means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) ''Qualifying city'' means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in

that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) (A) (i) In any county other than the County of Santa Clara, 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 tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this clause shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this clause 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.

(ii) No reduction may be made pursuant to clause (i) 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.

(B) In the County of Santa Clara, the net of the amounts determined and applied as follows:

(i) An amount determined and applied as described in clause (i) of subparagraph (A), but not subject to the prohibition of clause (ii) of subparagraph (A).

(ii) The additional amount of revenue that is collected by the qualifying city in the first fiscal year following the operative date of the city's increase in the rate or base of, or new imposition of, a locally imposed tax, on or after January 1, 1998. The amount so computed by the auditor shall constitute an increase in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each

succeeding fiscal year, until the first fiscal year following the repeal of the increase or tax. That amount shall be aggregated with any additional amount computed pursuant to this clause as the result of the city's increase in the rate or base of, or new imposition of, a locally imposed general or special tax in any subsequent year. Notwithstanding any other provision of this clause, in no fiscal year shall the total amount computed for the qualifying city pursuant to this clause exceed the total amount computed for the qualifying city pursuant to clause (i).

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city. Notwithstanding this paragraph:

(A) Commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(B) Commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(4) Any amount of property tax revenues that has been exchanged pursuant to Section 56842 of the Government Code between the City of Rancho Mirage and a community services district, the formation of which was initiated on or after March 6, 1997, pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code.

(g) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a ''services for revenue agreement'' means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(h) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(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, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

SEC. 2. Section 98.02 of the Revenue and Taxation Code is amended to read:

98.02. (a) In the County of Ventura, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal 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 fiscal 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*) (1) 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.

(2) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a ''services for revenue agreement'' means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(m) The amount not distributed as a result of this section to the tax rate areas, except excluded tax rate areas, in each qualifying city shall be allocated by the auditor to the county.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by both this bill and SB 1883. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 98 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1883, in which case Section 1 of this bill shall not become operative.

CHAPTER 172

An act to add Section 31469.8 to the Government Code, relating to county employees' retirement.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 31469.8 is added to the Government Code, to read:

31469.8. (a) In a county of the 18th class, as defined by Sections 28020 and 28039, as amended by Chapter 1204 of the Statutes of 1971, the board of supervisors may meet and confer pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) with a recognized employee organization that represents county employees who are not safety members because the board of supervisors has not made Section 31469.4 applicable in the county, and endeavor to reach agreement on any conditions to be required of employees or an employee organization seeking to have Section 31469.4 made applicable. The conditions shall include, but not be limited to, whether the employees shall be required to pay all or part of the following:

(1) The increase in the employer's normal cost contributions.

(2) Any increase of the employer's unfunded actuarial accrued liability in excess of what it would have accrued if the employees had remained miscellaneous members.

(3) Any increase in the employer's normal cost contributions or unfunded actuarial liability attributable to employees who have become safety members electing to purchase credit as a safety member pursuant to Section 31639.7 for the time served in an eligible position prior to becoming a safety member.

(b) Any payments made by employees on behalf of the employer to cover the increased cost of safety retirement shall be as determined upon

actuarial advice from the retirement board's actuaries, and shall be approved by the board of retirement.

(c) This section shall not be operative in the county until the date on which the board of supervisors, by resolution adopted by a majority vote, makes the provisions of this section applicable in the county.

SEC. 2. Due to unique facts and circumstances applicable to Marin County, 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. Therefore, this special legislation is necessarily applicable to only Marin County.

CHAPTER 173

An act to add Section 5007.2 to the Public Resources Code, relating to the Department of Parks and Recreation.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

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

(a) Due to the state's stewardship of some of the finest and rarest artifacts in the world at Hearst Castle, the ability to quickly address restoration needs is essential to ensure the welfare of these irreplaceable artifacts.

(b) Allowing the Department of Parks and Recreation to forego the normal bid process on artifact restoration when expenditures are less than fifty thousand dollars ($50,000), will give the state the ability to save funds by staving off further deterioration of these items while enhancing their value to the visitors of Hearst Castle.

(c) Proper restoration techniques are offered by a limited pool of qualified service providers.

(d) Streamlining the lengthy bid process on smaller jobs allows the Superintendent of Hearst Castle to tend to the needs of these artifacts that are unique to this facility in a more timely manner.

SEC. 2. Section 5007.2 is added to the Public Resources Code, to read:

5007.2. Notwithstanding any other provision of law, a contract for services under the amount of fifty thousand dollars ($50,000) to restore artifacts at the Hearst San Simeon State Historical Monument is exempt

from Part 2 (commencing with Section 10100) of the Public Contract Code.

CHAPTER 174

An act to amend Section 218 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 218 of the Public Utilities Code is amended to read:

218. (a) ''Electrical corporation'' includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.

(b) ''Electrical corporation'' does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property and one or more of the following applies:

(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.

(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.

(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.

(3) Sale or transmission to an electrical corporation or state or local public agency, but not for sale or transmission to others, unless the corporation or person is otherwise an electrical corporation.

(c) ''Electrical corporation'' does not include a corporation or person employing landfill gas technology for the generation of electricity for any one or more of the following purposes:

(1) Its own use or the use of not more than two of its tenants located on the real property on which the electricity is generated.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated.

(3) Sale or transmission to an electrical corporation or state or local public agency.

(d) ''Electrical corporation'' does not include a corporation or person employing digester gas technology for the generation of electricity for any one or more of the following purposes:

(1) Its own use or the use of not more than two of its tenants located on the real property on which the electricity is generated.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated.

(3) Sale or transmission to an electrical corporation or state or local public agency, provided, however, that the sale or transmission of the electricity service to a retail customer shall only be provided through the transmission system of the existing local publicly owned electric utility or electrical corporation of that retail customer.

(e) The amendments made to this section at the 1987 portion of the 1987–88 Regular Session of the Legislature do not apply to any corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity that physically produced electricity prior to January 1, 1989, and furnished that electricity to immediately adjacent real property for use thereon prior to January 1, 1989.

CHAPTER 175

An act to add Sections 11621.1, 11621.2, 11621.3, 11621.4, and 11621.5 of, and to repeal Section 11621 of, the Insurance Code, relating to insurance.

[Approved by Governor July 21, 2000. Filed with
Secretary of State July 21, 2000.]

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

SECTION 1. Section 11621 of the Insurance Code is repealed.

SEC. 2. Section 11621.1 is added to the Insurance Code, to read:

11621.1. ln the event an insurer discontinues writing automobile liability insurance in this state but retains its license to write that business, it shall continue to pay plan assessments and receive plan assignments until its quota or quotas established by its writings prior to discontinuance of business has or have been filled. However, if the automobile liability business of an insurer discontinuing the writing of that business in this state has been transferred to or reinsured by another insurer, the latter shall receive and assume the plan assignments and plan assessments of the insurer discontinuing business, as established by its writings prior to the transfer or agreement of reinsurance, until its quota or quotas has or have been filled, unless another insurer is allowed to assume those obligations.

SEC. 3. Section 11621.2 is added to the Insurance Code, to read:

11621.2. (a) An insurer that is no longer licensed to write automobile liability insurance in this state shall have its plan business treated in the same manner as its voluntary business and shall not receive new assignments.

(b) The run-off of existing plan business shall be conducted in an orderly manner with policies nonrenewed upon the next anniversary date.

(c) An insurer that elects to surrender its license or has its license to do business in this state revoked shall comply with the following requirements:

(1) If an insurer elects to leave this state by surrendering its license to write automobile insurance, it must submit to the plan's advisory committee as a condition precedent to the surrender of its license a plan that disposes of the insurer's quota of plan assignments established by its voluntary writings, and provides for the handling of its outstanding assigned risk policies, including payment of claims, by appropriate financial arrangements or reinsurance agreements. The plan's advisory committee shall evaluate the plan that is submitted and shall advise the commissioner as to whether or not it recommends acceptance or rejection by the commissioner of the plan.

(2) In the event an insurer's license to do business in this state is revoked by the commissioner, the insurer shall submit to the plan's advisory committee a plan that disposes of the insurer's quota of plan assignments established by its voluntary writings, and provides for the handling of its outstanding assigned risk policies, including payment of claims, by appropriate financial arrangements or reinsurance agreements. The plan's advisory committee shall evaluate the plan that

is submitted and shall advise the commissioner as to whether or not it recommends acceptance or rejection by the commissioner of the plan.

(d) If all insurers in a group are under the same ownership and management, or a group elects to be treated as a single insurer and an insurer in the same group is no longer licensed, that insurer shall comply with the provisions of this section.

SEC. 4. Section 11621.3 is added to the Insurance Code, to read:

11621.3. Insurer groups under the same ownership may elect to be treated as one insurer for purposes of participating in the plan and receiving its assignments and assessments pursuant to this article.

SEC. 5. Section 11621.4 is added to the Insurance Code, to read:

11621.4. (a) New plan assignments to a participating insurer may be suspended or a participating insurer may be relieved of its obligation to renew existing assigned risk policies at expiration when a valid order of suspension is issued by the commissioner and the suspension of assignments or policy renewals is approved by the commissioner. Prior to the approval of a suspension of assignments or policy renewals, the plan's advisory committee shall advise the commissioner as to whether or not it recommends approval or denial of the suspension.

(b) If an insurer granted relief pursuant to subdivision (a) resumes writing business in this state, its quota shall reflect the plan assignments it would have received and the assigned risk renewal policies it would have issued during its period of suspension. The required assignment adjustment shall be spread over a period of three or more years, as determined by the commissioner. Prior to determining this assignment adjustment, the plan's advisory committee shall advise the commissioner as to whether or not it recommends approval or denial of the adjustment.

(c) The adjustment of the insurer's quota shall be a percentage of the insurer's under-assignments as determined by the commissioner. Prior to determining this adjustment, the plans's advisory committee shall advise the commissioner as to whether or not it recommends approval or denial of the adjustment. After the approved period of adjustment has expired, the insurer's normal quota will resume unless the insurer shows good cause to and receives approval from the commissioner for extension of the adjustment period. Prior to this approval, the plan's advisory committee shall advise the commissioner as to whether or not it recommends approval or denial of this extension.

SEC. 6. Section 11621.5 is added to the Insurance Code, to read:

11621.5. (a) In the event proceedings have been initiated by the commissioner to have an insurer declared insolvent, and a receiver or liquidator has been appointed, the plan shall reimburse any insured of that insurer for the unearned premium on any assigned risk policy then in force, upon submission of satisfactory evidence from the insured that

the policy was in force at the time of the declaration of insolvency and that the requisite premium had been paid.

(b) The amount expended by the plan to remit unearned premium to insureds shall be deemed a cost of administration of the plan and shall be apportioned as provided in the plan adopted and approved pursuant to this article. The plan shall be subrogated in the liquidation proceedings to the right of reimbursement of all insureds to whom unearned premium has been remitted. In the event that the insurer is subsequently found by the court not to be insolvent, the proceedings are dismissed, and the receiver or liquidator has been discharged, the insurer shall be assessed by the plan for the total amount expended by the plan for return of unearned premiums.

CHAPTER 176

An act to amend Section 484 of the Penal Code, relating to theft.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 484 of the Penal Code is amended to read:

484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every

judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) (1) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars ($1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(2) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars ($1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

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 177

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 July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. The sum of one hundred twenty-two million one hundred forty-nine thousand dollars ($122,149,000) 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) Thirty-five thousand dollars ($35,000) from the Aeronautics Account in the State Transportation Fund for the payment of claims from counties, cities, a city and county, or other appropriately designated local government entities, pursuant to Sections 21670 and 21670.1 of the Public Utilities Code, as amended by Chapter 644 of the Statutes of 1994, Chapter 66 of the Statutes of 1995, and Chapter 91 of the Statutes of 1995 (Airport Land Use Commissions/Plans), for costs incurred from January 1, 1995, to June 30, 2001, inclusive.

(b) Four million five hundred eighty-seven thousand dollars ($4,587,000) for the payment of claims from counties, or a city and county, pursuant to subdivisions (e), (f), (g), (h), and (i) of Section 273.5 and Sections 1000.93, 1000.94, 1000.95, and 1203.097 of the Penal Code, as repealed, added, or amended by Chapters 183 and 194 of the Statutes of 1992, Chapter 28 of the First Extraordinary Session of the Statutes of 1994, and Chapter 641 of the Statutes of 1995 (Domestic Violence Treatment Services--Authorization and Case Management), for costs incurred from January 1, 1996, to June 30, 2001, inclusive.

(c) One hundred ninety-seven thousand dollars ($197,000) for the payment of claims from school districts, except for community college districts, pursuant to Section 51230 of the Education Code, as added by Chapter 778 of the Statutes of 1996 (American Government Course Document Requirements), for costs incurred from January 1, 1997, to June 30, 2001, inclusive.

For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, 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 2000–01 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 2000–01 fiscal year.

(d) One million four hundred seventeen thousand dollars ($1,417,000) for the payment of claims from counties, cities, a city and county, and special districts, pursuant to Section 1797.192 of the Health and Safety Code, as added by Chapter 1111 of the Statutes of 1989 and later renumbered as Section 1797.193 by Chapter 216 of the Statutes of 1990 (Sudden Infant Death Syndrome Training for Firefighters), for costs incurred from July 1, 1990, to June 30, 2001, inclusive.

(e) Five hundred sixty-two thousand dollars ($562,000) for the payment of claims from counties, cities, a city and county, and special districts, pursuant to Sections 51175 to 51189, inclusive, of the Government Code, and Sections 13108.5 and 13132.7 of the Health and Safety Code, as added and amended by Chapter 1188 of the Statutes of 1992, Chapter 843 of the Statutes of 1994, and Chapter 333 of the Statutes of 1995 (Very High Fire Hazard Severity Zones), for costs incurred from July 1, 1996, to June 30, 2001, inclusive.

(f) Two hundred thirteen thousand dollars ($213,000) for the payment of claims from school districts, except for community college districts, that are adjacent to the international border, pursuant to Sections 48204.5 and 48204.6 of the Education Code, and Section 97.3 of the Revenue and Taxation Code, as added and amended by Chapter 309 of the Statutes of 1995 (Pupil Residency Verification and Appeals), for costs incurred from August 3, 1995, to June 30, 2001, inclusive.

For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, 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 2000–01 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 2000–01 fiscal year.

(g) Four million nine hundred fifty-six thousand dollars ($4,956,000) for the payment of claims from school districts, except for community

college districts but including charter schools, pursuant to Sections 44332.6, 44830.1, 45122.1, 45125, and 45125.1 of the Education Code, as added and amended by Chapter 588 of the Statutes of 1997, and Chapter 589 of the Statutes of 1997 (Criminal Background Checks—a.k.a. Michele Montoya School Safety Act), for costs incurred from September 30, 1997, to June 30, 2001, inclusive.

For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, 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 2000–01 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 2000–01 fiscal year.

(h) One hundred ten million one hundred eighty-two thousand dollars ($110,182,000), of which one million nine hundred seventy-nine thousand dollars ($1,979,000) is appropriated from the State Transportation Fund and one hundred eight million two hundred three thousand dollars ($108,203,000) is appropriated from the General Fund, for the payment of deficiencies in prior year appropriations, which includes payment of interest on those deficiencies, incurred through June 30, 2000, pursuant to Section 17561.6 of the Government Code, as detailed in the Controller's letter to the Department of Finance dated May 2, 2000, and the Department of Finance's letter to the Legislature dated May 15, 2000. This amount includes forty-seven million nine hundred three thousand dollars ($47,903,000) from the General Fund for claims relating to the open meetings requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and sixteen million seven hundred fourteen thousand dollars ($16,714,000) from the General Fund for interest on late payments.

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.

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CHAPTER 178

An act relating to child abuse.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. The Board of Corrections shall revise the annual training requirements for probation officers to provide that each full participation probation officer providing direct service to families and children shall complete updated training or child abuse identification and reporting, with the content and protocols of the training prescribed by the Board of Corrections. This training shall occur no less frequently than once every three years unless the chief probation officer determines that the staff member's job responsibilities do not include contact with juvenile probationers or adult probationers who are parents or have more than occasional contact with minors.

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 179

An act to add Section 1179.6 to the Streets and Highways Code, relating to highways.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 1179.6 is added to the Streets and Highways Code, to read:

1179.6. (a) In addition to any other authority granted under this article, the board may issue bonds, notes, or other evidences of indebtedness on behalf of a permanent road division or a zone to finance capital improvements for a term of not more than 10 years, to be repaid

solely from special taxes or parcel charges levied within the division or zone.

(b) The provisions of Sections 53356.1 to 53356.6, inclusive, of the Government Code shall apply within the division or zone with regard to the collection of the special taxes or parcel charges and to the foreclosure of liens when the board has issued bonds, notes, or other evidences of indebtedness on behalf of the division or zone.

CHAPTER 180

An act to amend Section 8880.68 of the Government Code, relating to taxation.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 21, 2000.]

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

SECTION 1. Section 8880.68 of the Government Code is amended to read:

8880.68. Except as provided in subdivision (d), no state or local taxes shall be imposed upon the following:

(a) The sale of lottery tickets or shares of the lottery.

(b) Any prize awarded by the lottery.

(c) Any amount received by a prizewinner pursuant to an assignment under Section 8880.325.

(d) This section does not prohibit the imposition of property taxes or license fees for any noncash prize that is awarded by the lottery.

SEC. 2. The Legislature finds and declares that the amendments made to Section 8880.68 of the Government Code by this act are consistent with the intent of the amendments made to Section 8880.32 of the Government Code by Chapter 890 of the Statutes of 1994 and the intent of the amendments adding Sections 8880.325, 8880.326, and 8880.327 to, and repealing Section 8880.32 of, the Government Code made by Chapter 363 of the Statutes of 1995, and do not constitute a change in, but are declaratory of, existing law.

CHAPTER 181

An act to amend Section 2900 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 21, 2000. Filed with
Secretary of State July 21, 2000.]

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

SECTION 1. Section 2900 of the Vehicle Code is amended to read:

2900. There is in this state, the California Traffic Safety Program, which consists of a comprehensive plan in conformity with the laws of this state to reduce traffic accidents and deaths, injuries, and property damage resulting from accidents. The program shall include, but not be limited to, provisions to improve driver performance, including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, and driver examinations and driver licensing, and provisions to improve bicyclist and pedestrian education and performance. In addition, the program shall include, but not be limited to, provisions for an effective record system of accidents, including injuries and deaths resulting from accidents; accident investigations to determine the probable causes of accidents, injuries, and deaths; vehicle registration, operation, and inspection; highway design and maintenance including lighting, markings, and surface treatment; traffic control; vehicle codes and laws; surveillance of traffic for detection and correction of high or potentially high accident locations; and emergency services.

CHAPTER 182

An act to amend Section 19461 of the Welfare and Institutions Code, relating to rehabilitation, and making an appropriation therefor.

[Approved by Governor July 21, 2000. Filed with
Secretary of State July 21, 2000.]

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

SECTION 1. Section 19461 of the Welfare and Institutions Code is amended to read:

19461. As used in this article:

(a) ''Department'' means the State Department of Rehabilitation.

(b) ''Eligible persons'' means any of the following, provided that household income does not exceed the level prescribed for moderate-income families by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code:

(1) Parents of children with disabilities, who are living in the home, and who require a modified vehicle for mobility, as certified by a physician or the department.

(2) Persons with disabilities who require a modified vehicle for mobility, as certified by a physician or the department, and who have been found ineligible for vocational rehabilitation services from the Department of Rehabilitation or who are eligible for vocational rehabilitation services but have been placed on the department's order of selection waiting list. The person shall be employed, and require a vehicle to maintain that employment.

(c) ''Eligible lender'' means a financial institution organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans or extend credit and subject to supervision by an official or agency of this state or the United States.

CHAPTER 183

An act to amend Section 19104 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 19104, as amended by Chapter 203 of the Statutes of 1999, of the Revenue and Taxation Code is amended to read:

19104. (a) Interest upon the amount assessed as a deficiency shall be assessed, collected, and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19521 from the date prescribed for the payment of the tax or, if the tax is paid in installments, from the date prescribed for payment of the first installment, until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on that portion only to the date paid.

(b) If the Franchise Tax Board makes or allows a refund or credit that it determines to be erroneous, in whole or in part, the amount erroneously made or allowed may be assessed and collected after notice and demand pursuant to Section 19051 (pertaining to mathematical errors), except that the rights of protest and appeal shall apply with respect to amounts assessable as deficiencies without regard to the running of any period of limitations provided elsewhere in this part. Notice and demand for repayment must be made within two years after the refund or credit was

made or allowed, or during the period within which the Franchise Tax Board may mail a notice of proposed deficiency assessment, whichever period expires the later. Interest on amounts erroneously made or allowed shall not accrue until 30 days from the date the Franchise Tax Board mails a notice and demand for repayment as provided by this subdivision.

(c) (1) The Franchise Tax Board may abate all or any part of any of the following :

(A) Any interest on a deficiency or related to a proposed deficiency to the extent that interest is attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Franchise Tax Board (acting in his or her official capacity) in performing a ministerial or managerial act.

(B) Any interest on a payment of any tax described in Section 19033 to the extent that any delay in that payment is attributable to an officer or employee of the Franchise Tax Board (acting in his or her official capacity) being dilatory in performing a ministerial or managerial act.

(C) Any interest accruing from a deficiency based on a final federal determination of tax, for the same period that interest was abated on the related federal deficiency amount under Section 6404(e) of the Internal Revenue Code, and the error or delay occurred on or before the issuance of the final federal determination. This subparagraph shall apply to any ministerial act for which the interest accrued after September 25, 1987, or for any managerial act applicable to a taxable or income year beginning on or after January 1, 1998, for which the Franchise Tax Board may propose an assessment or allow a claim for refund.

(2) For purposes of paragraph (1):

(A) Except as provided in subparagraph (C), an error or delay shall be taken into account only if no significant aspect of that error or delay can be attributed to the taxpayer involved and after the Franchise Tax Board has contacted the taxpayer in writing with respect to that deficiency or payment.

(B) (i) Except as provided in subparagraph (D), after the Franchise Tax Board mails its notice of determination not to abate interest, a taxpayer may appeal the Franchise Tax Board's determination to the State Board of Equalization within the following periods:

(I) Thirty days in the case of any unpaid interest described under paragraph (1).

(II) Ninety days in the case of any paid interest described under paragraph (1).

(ii) The State Board of Equalization shall have jurisdiction over the appeal to determine whether the Franchise Tax Board's failure to abate interest under this section was an abuse of discretion, and may order an abatement.

(iii) Except for subclauses I and II of clause (i), the provisions of this subparagraph are operative for requests for abatement of interest made on or after January 1, 1998. The provisions of subclauses I and II of clause (i) shall apply to requests for abatement of interest made on or after January 1, 2001, in accordance with paragraph (4).

(C) If the Franchise Tax Board fails to mail its notice of determination on a request to abate interest within six months after the request is filed, the taxpayer may consider that the Franchise Tax Board has determined not to abate interest and appeal that determination to the board. This subparagraph shall not apply to requests for abatement of interest made pursuant to subparagraph (D).

(D) A request for abatement of interest related to a proposed deficiency may be made with the written protest of the underlying proposed deficiency filed pursuant to Section 19041 or with an appeal to the board under Section 19045 in the form and manner required by the Franchise Tax Board. The action of the Franchise Tax Board denying any portion of the request for abatement of interest relating to the proposed deficiency shall be considered as part of the appeal of the action of the Franchise Tax Board on the protest of the proposed deficiency. If the taxpayer filed an appeal from the Franchise Tax Board's action of the protest of a proposed deficiency and the deficiency is final pursuant to Section 19048, the taxpayer may not thereafter request an abatement of interest accruing prior to the time the deficiency is final. However, the taxpayer may thereafter request an abatement pursuant to this section limited to interest accruing after the deficiency is final.

(3) The Franchise Tax Board shall abate the assessment of all interest on any erroneous refund for which an action for recovery is provided under Section 19411 until 30 days after the date demand for repayment is made, unless either of the following has occurred:

(A) The taxpayer (or a related party) has in any way caused that erroneous refund.

(B) That erroneous refund exceeds fifty thousand dollars ($50,000).

(4) The amendments made to this subdivision by the act adding this paragraph shall apply to requests for abatement of interest and appeals made on or after January 1, 2001.

(5) Except as provided in clause (iii) of subparagraph (B) of paragraph (2), the amendments made by Chapter 600 of the Statutes of 1997 are operative with respect to taxable or income years beginning on or after January 1, 1998.

CHAPTER 184

An act to amend Section 6254 of the Government Code, relating to victims of sexual crimes.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by

any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section

220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or

exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public data base maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions,

communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions,

opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or, financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee

shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 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 185

An act to amend Section 22433 of the Business and Professions Code, relating to simulated checks.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. The Legislature finds and declares that the use of simulated checks is inherently misleading to many members of the public who believe that they have won a prize or gift or received a monetary benefit represented by the simulated check and that the simulated check itself either has the value represented on its face or represents an actual check or other item of value that can be claimed or redeemed with the simulated check. The Legislature further finds and declares that disclosures, such as an indication that the simulated check is not a real check, have not been effective in curing the misleading impact created by the bogus checks. It is, therefore, the intent of the Legislature to prevent the deception inherent in simulated checks by prohibiting their use.

SEC. 2. Section 22433 of the Business and Professions Code is amended to read:

22433. (a) As used in this section, ''simulated check'' means any document that is not currency or a check, draft, note, bond, or other negotiable instrument but that, because of its appearance, has the tendency to mislead or deceive any person viewing it into believing that it, in fact, represents any of the following: (1) currency or a negotiable instrument that can be deposited in a bank or used for third party payments; (2) a prize, gift, or monetary benefit that the recipient has won or is entitled or guaranteed to receive; or (3) an actual check or other item of value that can be claimed or redeemed. ''Simulated check'' does not include a nonnegotiable check, draft, note, or other instrument that is used for soliciting orders for the purchase of checks, drafts, notes, bonds, or other instruments, and that is clearly marked as a sample, specimen, or nonnegotiable. ''Simulated check'' also does not include any document indicating in a truthful and nonmisleading manner that a person, in fact, unconditionally has won or is entitled or guaranteed to receive a specific prize, gift, or amount of money or credit.

(b) No person shall produce, advertise, offer for sale, sell, distribute, or otherwise transfer for use in this state any simulated check.

(c) The Attorney General may bring an action to enjoin a violation of this section, and to recover a civil penalty of not more than one hundred dollars ($100) for each violation of this section. A violation of this section may be enjoined without proof that any person has, in fact, been injured or damaged by the violation.

CHAPTER 186

An act to amend Section 1336 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 1336 of the Penal Code is amended to read:

1336. (a) When a material witness for the defendant, or for the people, is about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehension that he or she will be unable to attend the trial, or is a person 70 years of age or older, or a dependent adult, the defendant or the people may apply for an order that the witness be examined conditionally.

(b) When the people have evidence that the life of a prosecution witness is in jeopardy, the people may apply for an order that the witness be examined conditionally.

(c) As used in this section, ''dependent adult'' means any person who is between the ages of 18 and 70, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. ''Dependent adult'' includes any person between the ages of 18 and 70 who is admitted as an inpatient to a 24-hour facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

CHAPTER 187

An act to add Section 66721.5 to the Education Code, relating to public postsecondary education.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. This act shall be known, and may be cited as, the ''Access to Transfer Information for Community College Students Act.''

SEC. 2. The Legislature finds and declares all of the following:

(a) Student matriculation, from community colleges through the University of California and the California State University, is recognized by the Governor, Legislature, and the governing boards of each of the segments of California's system of public postsecondary education as a central institutional priority of all segments of higher education.

(b) The Board of Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and Trustees of the California State University, should ensure that all students are clearly and fully informed as to which community college courses and units are transferable.

(c) Knowledge of transfer agreements will improve a community college student's opportunity to transfer.

(d) The Master Plan for Higher Education establishes transfers as a priority. The California Community Colleges and the University of

California established the goal of a 33 percent increase in transfers between the 1995–96 and the 2004–05 academic years.

(e) According to recent reports by the California Postsecondary Education Commission, the transfer rate to the University of California system has decreased every year since 1995. Given the decreased transfer rates, there is no possibility of achieving the goal of 33 percent.

SEC. 3. Section 66721.5 is added to the Education Code, to read:

66721.5. (a) (1) The governing board of each community college district shall direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum.

(2) As used in this section, ''transfer core curriculum'' means the lower-division, general education transfer curriculum that, pursuant to Section 66720, is fully articulated between the California Community Colleges and the California State University and University of California.

(b) A copy of the current transfer core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution.

(c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not necessarily limited to, all of the following:

(1) The admissions office.

(2) The bookstore.

(3) The career counseling center.

(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.

(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.

(3) During the issuance of student identification cards.

(4) During student orientation programs.

(e) Nothing in this section shall be construed to limit the distribution of the transfer core curriculum to community college students.

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 188

An act to amend Section 9614 of the Commercial Code, relating to secured transactions.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 9614 of the Commercial Code is amended to read:

9614. In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide all of the following information:

(A) The information specified in subdivision (1) of Section 9613.

(B) A description of any liability for a deficiency of the person to which the notification is sent.

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 9623 is available.

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

Name and address of secured party]

[Date]

NOTICE OF OUR PLAN TO SELL PROPERTY

[Name and address of any obligor who is also a debtor]

Subject: _____
[Identification of Transaction]

We have your _____, because you broke promises
[describe collateral]
in our agreement.

[For a public disposition:]

We will sell _____, at public sale. A sale could
[describe collateral]
include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

(For a public disposition pursuant to Section 9614(7)(A) or (7)(B)):

We will sell _____
(describe type of motor vehicle)

beginning on _____
(date)

by offering it for retail sale or lease to the general public through (select the applicable provision:)

(A) Name of dealer _____

Address of dealer _____

You may inspect the motor vehicle and encourage people to purchase or lease it.

(or)

(B) Advertising it for sale to the general public to be purchased from _____
(name of secured creditor)

at _____
(address where vehicle is to be sold)

You may inspect the motor vehicle and encourage people to purchase or lease it.

[For a private disposition:]

We will sell _____ at private sale sometime
[describe collateral]
after _____.
[date]
A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you _____ still owe us the
[will or will not, as applicable]
difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at _____.
[telephone number]

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at _____ [or write us at _____]
[telephone number] [secured party's address]
and request a written explanation. [We will charge you $_____ for the explanation if we sent you another written explanation of the amount you owe us within the last six months.]

If you need more information about the sale call us at _____ [or write us at _____].
[telephone number] [secured party's address]

We are sending this notice to the following other people who have an interest in _____ or who owe money under
[describe collateral]
your agreement: _____
[Names of all other debtors and obligors, if any]

(4) A notification in the form of subdivision (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subdivision (3) is sufficient, even if it includes errors in information not required by subdivision (1), unless the error is misleading with respect to rights arising under this division.

(6) If a notification under this section is not in the form of subdivision (3), law other than this division determines the effect of including information not required by subdivision (1).

(7) If the collateral is a motor vehicle, a public disposition includes, but is not limited to, the following defined categories:

(A) Retail disposition by a retail seller of motor vehicles who offers the collateral for sale or lease to the general public in the same manner as goods that the seller disposes of on the seller's own behalf.

(B) Retail disposition made subsequent to advertising in a publication with a recognized ability to attract retail motor vehicle buyers and lessees and in a manner designed to reach the retail buying and leasing public for vehicles of that type and condition.

(8) For dispositions under subparagraphs (A) and (B) of paragraph (7), the secured creditor shall ensure that the consumer has reasonable access to the motor vehicle in question in order to be able to exercise the right to inspect the motor vehicle.

(9) Nothing in this section shall be construed to alter or disturb any right to inspect a consumer good prior to sale under existing law.

SEC. 2. Nothing in this act shall be construed to alter or disturb the holding in Bank of America v. Lallana (1998) 19 Cal.4th 203. This act does not define ''public'' and ''private'' sales and dispositions in general, but describes a limited subset of ''public'' sales and dispositions when the consumer goods collateral is a motor vehicle and provides a specific form of notice solely for those sales.

Nothing in this act shall be construed to alter or disturb any applicable requirements contained in the Rees-Levering Automobile Sales Finance Act (Chapter 2B (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code.

CHAPTER 189

An act to amend Sections 12965 and 12987 of the Government Code, relating to discrimination.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. 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 includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or for both, or if an accusation is amended for the purpose of adding a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or 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. 2. Section 12987 of the Government Code is amended to read:

12987. (a) If the commission, after hearing, finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the practice and to take those actions, as, in the judgment of the commission, will effectuate the purpose of this part, including, but not limited to, any of the following:

(1) The sale or rental of the housing accommodation if it is still available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (f) of Section 12955 in the purchase, organization, or construction of the housing accommodation, if available.

(2) Affirmative or prospective relief, including injunctive or other equitable relief.

(3) The payment to the complainant of a civil penalty against any named respondent, not to exceed ten thousand dollars ($10,000) unless, in a separate accusation, the respondent has been adjudged to have, with intent, committed a prior violation of Section 12955. If the respondent has, in a separate accusation, been adjudged to have committed a prior violation of Section 12955 within the five years preceding the filing of the complaint, the amount of the civil penalty may exceed ten thousand dollars ($10,000), but may not exceed twenty-five thousand dollars ($25,000). If the respondent, in separate accusations, has been adjudged to have, with intent, violated Section 12955 two or more times within the seven-year period preceding the filing of the complaint, the civil penalty may exceed twenty-five thousand dollars ($25,000), but may not exceed fifty thousand dollars ($50,000). All civil penalties awarded under this provision shall be collected by the department. The

commission may award the prevailing party, other than the state, reasonable attorneys' fees and costs against any party other than the state, including expert witness fees.

(4) The payment of actual damages to the complainant.

(b) No remedy shall be available to the aggrieved person unless the aggrieved person waives any and all rights or claims under Section 52 of the Civil Code prior to receiving a remedy, and signs a written waiver to that effect.

(c) The commission may require a report of the manner of compliance.

(d) If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent.

(e) Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

CHAPTER 190

An act to amend Section 52054 of the Education Code, relating to school accountability.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 52054 of the Education Code is amended to read:

52054. (a) By November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) By December 15 of the year that the school is selected to participate, the selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below-average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By January 15 of the year that the school is selected to participate, the selected external evaluator shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance and makes recommendations for improvement.

(d) By April 15 of the year that follows the year the school is selected to participate, the external evaluator and the schoolsite and community team selected pursuant to subdivision (a) shall develop an action plan to improve the academic achievement of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(e) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English learners, economically disadvantaged pupils, and other groups of pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(f) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the

school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction.

(j) Not later than June 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

CHAPTER 191

An act to amend Sections 22002, 22553, 22555, and 22702 of, and to add Section 22002.5 to, the Public Utilities Code, relating to aviation.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 22002 of the Public Utilities Code is amended to read:

22002. The purpose of this part is to facilitate the formation of intercity and county airport districts having responsibility for the development of airports, spaceports, and air navigation facilities, the objective being to encourage airport and spaceport development by communities and to distribute the cost uniformly among all who benefit.

SEC. 2. Section 22002.5 is added to the Public Utilities Code, to read:

22002.5. As used in this part, the following terms have the following meanings:

(a) ''Launch'' means to place a payload on an expendable or reusable launch vehicle from Earth into a ballistic, suborbital, or orbital trajectory. Launch is also a means of placing a commercial, civil, or military payload into Earth orbit or beyond. Launch includes all activities involved in the preparation of a launch vehicle for flight,

including all processing, servicing, and support activities that take place at a launch site or at a California mission control support site for ocean launches. A launch commences with the arrival of the launch vehicle and payload at the spaceport.

(b) ''Launch site'' means the location on Earth from which a launch takes place, as defined in a license the United States Secretary of Transportation issues or transfers under the authority of the Commercial Space Launch Act (49 U.S.C.A. Sec. 70101 et seq.), and includes all facilities and support infrastructure related to launch, reentry, or payload processing.

(c) ''Launch vehicle'' means a vehicle used to place, or initiate the placement of, a payload in the upper atmosphere or outer space.

(d) ''Operation of a launch site'' means the conduct of approved operations at a launch site to support the launching of vehicles and payloads.

(e) ''Operation of a reentry site'' means the conduct of approved operations at a fixed site on Earth at which a reentry vehicle or its payload, if any, is intended to land.

(f) ''Payload'' means an object, usually, but not necessarily, a satellite, that a person undertakes to place into the upper atmosphere or outer space by means of a launch vehicle, including components of the vehicle specifically designed or adopted to support that activity.

(g) ''Person'' means any individual and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any state or nation.

(h) ''Reentry'' means the return of any launch vehicle that has been placed in a ballistic, suborbital, or orbital trajectory, or its payload, if any, to the Earth. Reentry includes all activities involved in the postflight ground operations. A reentry terminates when a launch vehicle or payload, if any, has completed its descent to Earth, is retrieved and secured.

(i) ''Spaceport'' means a location from which a space launch or operation directly associated with a space launch takes place, and a location at which a reentry vehicle or its payload, if any, is intended to land. Those buildings or facilities and any right-of-way directly associated with the space launch or reentry operations are considered part of the infrastructure of a spaceport.

SEC. 3. Section 22553 of the Public Utilities Code is amended to read:

22553. A district may do all of the following:

(a) Sue and be sued, except as otherwise provided by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(b) Adopt a seal and alter it at pleasure.

(c) Provide and maintain public airports, spaceports, and landing places for aerial and space reentry traffic.

(d) Acquire by purchase, condemnation, donation, lease, or otherwise, real or personal property necessary to the full or convenient exercise of any of its powers or purposes.

(e) Improve, construct or reconstruct, lease, furnish or refurnish, use, repair, maintain, control, sell, or dispose of the property of the district, including any buildings, structures, lighting equipment, and all other equipment and facilities necessary for those purposes.

SEC. 4. Section 22555 of the Public Utilities Code is amended to read:

22555. The board shall make all rules governing the use of the airports and spaceports, landing places for aerial traffic, and other aerial facilities of the district that the board determines to be necessary.

SEC. 5. Section 22702 of the Public Utilities Code is amended to read:

22702. District bonds may be issued and sold pursuant to this chapter for all of the following purposes:

(a) Raising money for purchasing real property for airport and spaceport purposes.

(b) Building and purchasing buildings or structures including hangars, or making alterations, additions, or repairs to the buildings or structures.

(c) Restoring or rebuilding buildings or structures damaged or destroyed by fire or other public calamity.

(d) Supplying buildings, structures, and hangars with furnishings and necessary apparatus.

(e) Improving the grounds of airports and spaceports.

(f) Acquiring and maintaining lighting equipment and all other equipment, devices, and facilities necessary or convenient for the airports and spaceports.

(g) Liquidating any indebtedness incurred for these purposes or refunding any valid outstanding indebtedness of the district evidenced by bonds or warrant.

(h) Paying all costs and expenses incident to the bond election, including engineering, architectural, legal charges, fiscal agent's charges and interest during construction and for a period of not to exceed 12 months after the date of completion of construction.

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CHAPTER 192

An act to amend Section 223 of the Code of Civil Procedure, relating to jurors.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 223 of the Code of Civil Procedure is amended to read:

223. In a criminal case, the court shall conduct an initial examination of prospective jurors. The court may submit to the prospective jurors additional questions requested by the parties as it deems proper. Upon completion of the court's initial examination, counsel for each party shall have the right to examine, by oral and direct questioning, any or all of the prospective jurors. The court may, in the exercise of its discretion, limit the oral and direct questioning of prospective jurors by counsel. The court may specify the maximum amount of time that counsel for each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel. Voir dire of any prospective jurors shall, where practicable, occur in the presence of the other jurors in all criminal cases, including death penalty cases. Examination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause.

The trial court's exercise of its discretion in the manner in which voir dire is conducted, including any limitation on the time which will be allowed for direct questioning of prospective jurors by counsel and any determination that a question is not in aid of the exercise of challenges for cause, shall not cause any conviction to be reversed unless the exercise of that discretion has resulted in a miscarriage of justice, as specified in Section 13 of Article VI of the California Constitution.

CHAPTER 193

An act to amend Sections 17180 and 17199.1 of the Education Code, relating to school facilities.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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 the state share of funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Section 17070.10). The purchase of all or part of any rights to, or possibilities regarding, the state contribution for funding for school facilities approved by the State Allocation Board shall be limited to amounts approved and funded or amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued. Loans or purchases completed pursuant to this section may be used for either 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 the state's share of 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 from proceeds of state bonds already authorized by the electors but not yet issued; (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 an approved state contribution to funding for school facilities pursuant to Chapter 12.5 (commencing with Sec. 17070.10) that remains unfunded pending the issuance of state bonds already authorized by the electors 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 the state share of funding for school facilities approved by the State Allocation Board including amounts apportioned and funded and amounts approved but not yet funded from proceeds of state bonds already authorized by the electors but not yet issued, 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 the state contribution for funding for school facilities 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 proceeds of state bonds already authorized by the electors but not yet issued, 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.

CHAPTER 194

An act to amend Sections 8211 and 8223 of the Government Code, relating to notaries public.

[Approved by Governor July 21, 2000. Filed with
Secretary of State July 24, 2000.]

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

SECTION 1. Section 8211 of the Government Code is amended to read:

8211. Fees charged by a notary public for the following services shall not exceed the fees prescribed by this section.

(a) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and the writing of the certificate, the sum of ten dollars ($10) for each signature taken.

(b) For administering an oath or affirmation to one person and executing the jurat, including the seal, the sum of ten dollars ($10).

(c) For all services rendered in connection with the taking of any deposition, the sum of twenty dollars ($20), and in addition thereto, the sum of five dollars ($5) for administering the oath to the witness and the sum of five dollars ($5) for the certificate to the deposition.

(d) For every protest for the nonpayment of a promissory note or for the nonpayment or nonacceptance of a bill of exchange, draft, or check, the sum of ten dollars ($10).

(e) For serving every notice of nonpayment of a promissory note or of nonpayment or nonacceptance of a bill of exchange, order, draft, or check, the sum of five dollars ($5).

(f) For recording every protest, the sum of five dollars ($5).

(g) No fee may be charged to notarize signatures on absentee ballot identification envelopes or other voting materials.

(h) For certifying a copy of a power of attorney under Section 4307 of the Probate Code the sum of ten dollars ($10).

(i) In accordance with Section 6107, no fee may be charged to a United States military veteran for notarization of an application or a claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's benefit.

SEC. 2. Section 8223 of the Government Code is amended to read:

8223. (a) No notary public who holds himself or herself out as being an immigration specialist, immigration consultant or any other title or description reflecting an expertise in immigration matters shall advertise in any manner whatsoever that he or she is a notary public.

(b) A notary public qualified and bonded as an immigration consultant under Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code may enter data, provided by the client, on immigration forms provided by a federal or state agency. The fee for this service shall not exceed ten dollars ($10) per individual for each set of forms. If notary services are performed in

relation to the set of immigration forms, additional fees may be collected pursuant to Section 8211. This fee limitation shall not apply to an attorney, who is also a notary public, who is rendering professional services regarding immigration matters.

(c) Nothing in this section shall be construed to exempt a notary public who enters data on an immigration form at the direction of a client, or otherwise performs the services of an immigration consultant, as defined by Section 22441 of the Business and Professions Code, from the requirements of Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code. A notary public who is not qualified and bonded as an immigration consultant under Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code may not enter data provided by a client on immigration forms nor otherwise perform the services of an immigration consultant.

CHAPTER 195

An act to add Section 1160 to the Evidence Code, relating to evidence.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 1160 is added to the Evidence Code, to read:

1160. (a) The portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability in a civil action. A statement of fault, however, which is part of, or in addition to, any of the above shall not be inadmissible pursuant to this section.

(b) For purposes of this section:

(1) ''Accident'' means an occurrence resulting in injury or death to one or more persons which is not the result of willful action by a party.

(2) ''Benevolent gestures'' means actions which convey a sense of compassion or commiseration emanating from humane impulses.

(3) ''Family'' means the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of an injured party.

CHAPTER 196

An act to amend Section 68203 of the Government Code, relating to judges' salaries, and making an appropriation therefor.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 68203 of the Government Code is amended to read:

68203. (a) On July 1, 1980, and on July 1 of each year thereafter the salary of each justice and judge named in Sections 68200 to 68202, inclusive, shall be increased by that amount which is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California State employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.

(b) For the purposes of this section, salary increases for state employees shall be such increases as reported by the Department of Personnel Administration.

(c) The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall in no case exceed five percent.

(d) On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by that amount which is produced by multiplying the salary of each justice and judge as of December 31, 2000, by $8^1/_2$ percent.

CHAPTER 197

An act to amend Sections 125.9 and 2099.5 of, and to repeal Section 2454 of, the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to osteopathic physicians and surgeons.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 125.9 of the Business and Professions Code is amended to read:

125.9. (a) Except with respect to persons regulated under Chapter 8 (commencing with Section 6850), Chapter 11 (commencing with Section 7500), Chapter 11.5 (commencing with Section 7512), and Chapter 11.6 (commencing with Section 7590) of Division 3, or a person holding a license specified in paragraph (1), (6), or (7) of subdivision (b) of Section 9941, any board, bureau, or commission within the department, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed two thousand five hundred dollars ($2,500) for each inspection or each investigation made with respect to the violation, or two thousand five hundred dollars ($2,500) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission.

Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

SEC. 2. Section 2099.5 of the Business and Professions Code is amended to read:

2099.5. Notwithstanding any other provision of law, an originating license for an osteopathic physician's and surgeon's certificate issued by the Osteopathic Medical Board of California shall require the following:

(a) A written examination, that is either prepared or selected by the Osteopathic Medical Board of California. The written examination shall include osteopathic principles and practices and all applicable provisions of Article 4 (commencing with Section 2080). An applicant shall successfully complete the written examination, as determined by the board.

(b) An oral, clinical, and practical examination administered by the board which the applicant shall successfully complete, as determined by the board.

SEC. 3. Section 2454 of the Business and Professions Code is repealed.

SEC. 4. 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, the Chiropractic Act, or the Osteopathic 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 Osteopathic Medical Board of California, the Board of Dental Examiners of California, 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, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(e) ''Disqualified person'' means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

CHAPTER 198

An act to amend Sections 6276.46 and 13968 of, and to add Section 6254.17 to, the Government Code, and to amend Section 1202.4 of the Penal Code, relating to victims of crime.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 6254.17 is added to the Government Code, to read:

6254.17. (a) Nothing in this chapter shall be construed to require disclosure of records of the State Board of Control that relate to a request

for assistance under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2.

(b) This section shall not apply to a disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2:

(1) The amount of money paid to a specific provider of services.

(2) Summary data concerning the types of crimes for which assistance is provided.

SEC. 2. Section 6276.46 of the Government Code is amended to read:

6276.46. Unclaimed property, Controller records of, disclosure, Section 1582, Code of Civil Procedure.

Unemployment compensation, disclosure of confidential information, Section 2111, Unemployment Insurance Code.

Unemployment compensation, information obtained in administration of code, Section 1094, Unemployment Insurance Code.

Unemployment compensation, purposes for which use of information may be authorized, Section 1095, Unemployment Insurance Code.

Unemployment fund contributions, publication of annual tax rate, Section 989, Unemployment Insurance Code.

Unsafe working condition, confidentiality of complainant, Section 6309, Labor Code.

Use fuel tax information, disclosure prohibited, Section 9255, Revenue and Taxation Code.

Utility systems development, confidential information, subdivision (e), Section 6254, Government Code.

Vehicle registration, financial responsibility verification study, confidentiality of information, Sections 4750.2 and 4750.4, Vehicle Code.

Vehicle accident reports, disclosure of, Sections 16005, 20012, and 20014, Vehicle Code and Section 27177, Streets and Highways Code.

Vehicular offense, record of, confidentiality five years after conviction, Section 1807.5, Vehicle Code.

Veterans Affairs, Department of, confidentiality of records of contract purchasers, Section 85, Military and Veterans Code.

Veterinarian or animal health technician, alcohol or dangerous drugs diversion and rehabilitation records, confidentiality of, Section 4871, Business and Professions Code.

Victim, statements at sentencing, Section 1191.15, Penal Code.

Victims' Legal Resource Center, confidentiality of information and records retained, Section 13897.2, Penal Code.

Victims of crimes compensation program, confidentiality of records, subdivision (d), Section 13968, Government Code.

Voter, registration by confidential affidavit, Section 2194, Elections Code.

Voter registration card, confidentiality of information contained in, Section 6254.4, Government Code.

Voting, secrecy, Section 1050, Evidence Code.

Wards and dependent children, inspection of juvenile court documents, Section 827, Welfare and Institutions Code.

SEC. 3. Section 13968 of the Government Code is amended to read:

13968. (a) The board may adopt all rules and regulations that are necessary to implement this article, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter, and the existence and locations of local victim centers. The board, in cooperation with local victim centers, shall set standards for the location of a display and shall provide posters, application forms, and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the state.

(c) It shall be the duty of every local law enforcement agency to inform victims of crimes of the provisions of this chapter, of the existence of local victim centers, and in counties where no local victim center exists, to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents that local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with local victim centers shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, every law enforcement and social service agency in the state shall provide to the board or to the designated local victim centers, upon request, a copy of a petition filed in a juvenile court proceeding, reports of the probation officer, any other document made available to the probation officer or to the judge, referee, or other hearing officer, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this article. The board or designated local victim centers shall refuse to allow inspection of a document that personally identifies a minor by

anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and any other persons as may be designated by court order of the judge of the juvenile court. Any information received pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated. A violation of this subdivision is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board or local victim center the information necessary to complete the verification of an application filed pursuant to this article.

(g) The Department of Justice shall furnish, upon application of the board, all information necessary to verify the eligibility of any applicant for benefits pursuant to Section 13960.2, to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime, or to evaluate the status of any criminal disposition.

(h) A privilege is not waived under Section 912 of the Evidence Code by an applicant consenting to disclosure of an otherwise privileged communication if that disclosure is deemed necessary by the board for verification of the application pursuant to Section 13961.

SEC. 4. Section 1202.4 of the Penal Code 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) (A) If, as a result of the defendant's conduct, the Restitution Fund has provided assistance to or on behalf of a victim or derivative victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, the amount of assistance provided shall be presumed to be a direct result of the defendant's criminal conduct and shall be included in the amount of the restitution ordered.

(B) The amount of assistance provided by the Restitution Fund shall be established by copies of bills submitted to the State Board of Control reflecting the amount paid by the board and whether the services for which payment was made were for medical or dental expenses, funeral or burial expenses, mental health counseling, wage or support losses, or rehabilitation. Certified copies of these bills provided by the State Board of Control and redacted to protect the privacy and safety of the victim or any legal privilege, together with a statement made under penalty of perjury by the custodian of records that those bills were submitted to and were paid by the State Board of Control, shall be sufficient to meet this requirement.

(C) If the defendant offers evidence to rebut the presumption established by this paragraph, the court may release additional information contained in the records of the State Board of Control to the defendant only after reviewing that information in camera and finding that the information is necessary for the defendant to dispute the amount of the restitution order.

(5) Except as provided in paragraph (6), 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.

(6) A defendant who fails to file the financial disclosure required in paragraph (5), 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 (5), and paragraphs (7) to (10), inclusive, shall not apply.

(7) Except as provided in paragraph (6), 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.

(8) In its discretion, the court may relieve the defendant of the duty under paragraph (7) 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.

(9) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (5) 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.

(10) A defendant's failure or refusal to make the required disclosure pursuant to paragraph (5) 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 (5) 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.

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 199

An act to amend Section 473.15 of the Business and Professions Code, relating to healing arts.

[Approved by Governor July 21, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 473.15 of the Business and Professions Code is amended to read:

473.15. (a) The Joint Legislative Sunset Review Committee established pursuant to Section 473 shall review the following boards established by initiative measures, as provided in this section:

(1) The State Board of Chiropractic Examiners established by an initiative measure approved by electors November 7, 1922.

(2) The Osteopathic Medical Board of California established by an initiative measure approved June 2, 1913, and acts amendatory thereto approved by electors November 7, 1922.

(b) The Osteopathic Medical Board of California shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the Joint Legislative Sunset Review Committee on or before September 1, 2003.

(c) The State Board of Chiropractic Examiners shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the Joint Legislative Sunset Review Committee on or before September 1, 2001.

(d) The Joint Legislative Sunset Review Committee shall, during the interim recess of 2003 for the Osteopathic Medical Board of California, and during the interim recess of 2001 for the State Board of Chiropractic Examiners, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, the public, and the regulated industry. In that hearing, each board shall be prepared to demonstrate a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(e) The Joint Legislative Sunset Review Committee shall evaluate and make determinations pursuant to Section 473.4 and shall report its

findings and recommendations to the department as provided in Section 473.5.

(f) In the exercise of its inherent power to make investigations and ascertain facts to formulate public policy and determine the necessity and expediency of contemplated legislation for the protection of the public health, safety, and welfare, it is the intent of the Legislature that the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California be reviewed pursuant to this section.

(g) It is not the intent of the Legislature in requiring a review under this section to amend the initiative measures that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

CHAPTER 200

An act to add Section 13515.25 to the Penal Code, relating to peace officers.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 13515.25 is added to the Penal Code, to read:

13515.25. (a) The Commission on Peace Officer Standards and Training shall, on or before June 30, 2001, establish and keep updated a continuing education classroom training course relating to law enforcement interaction with developmentally disabled and mentally ill persons. The training course shall be developed by the commission in consultation with appropriate community, local, and state organizations and agencies that have expertise in the area of mental illness and developmental disability, and with appropriate consumer and family advocate groups. In developing the course, the commission shall also examine existing courses certified by the commission that relate to mentally ill and developmentally disabled persons. The commission shall make the course available to law enforcement agencies in California.

(b) The course described in subdivision (a) shall consist of classroom instruction and shall utilize interactive training methods to ensure that the training is as realistic as possible. The course shall include, at a minimum, core instruction in all of the following:

(1) The cause and nature of mental illnesses and developmental disabilities.

(2) How to identify indicators of mental illness and developmental disability and how to respond appropriately in a variety of common situations.

(3) Conflict resolution and de-escalation techniques for potentially dangerous situations involving mentally ill and developmentally disabled persons.

(4) Appropriate language usage when interacting with mentally ill and developmentally disabled persons.

(5) Alternatives to lethal force when interacting with potentially dangerous mentally ill and developmentally disabled persons.

(6) Community and state resources available to serve mentally ill and developmentally disabled persons and how these resources can be best utilized by law enforcement to benefit the mentally ill and developmentally disabled community.

(c) The commission shall submit a report to the Legislature by October 1, 2003, that shall include all of the following:

(1) A description of the process by which the course was established, including a list of the agencies and groups that were consulted.

(2) Information on the number of law enforcement agencies that utilized, and the number of officers that attended, the course or other courses certified by the commission relating to mentally ill and developmentally disabled persons from July 1, 2001, to July 1, 2003, inclusive.

(3) Information on the number of law enforcement agencies that utilized, and the number of officers that attended, courses certified by the commission relating to mentally ill and developmentally disabled persons from July 1, 2000, to July 1, 2001, inclusive.

(d) The Legislature encourages law enforcement agencies to include the course created in this section, or any other course certified by the commission relating to mentally ill and developmentally disabled persons, as part of their advanced officer training program.

(e) It is the intent of the Legislature to reevaluate, on the basis of its review of the report required in subdivision (c), the extent to which law enforcement officers are receiving adequate training in how to interact with mentally ill and developmentally disabled persons.

CHAPTER 201

An act to amend Sections 1108, 1113, 2113, 15677.1, 15677.2, 15677.3, 15677.4, 15677.8, 16908, 16914, 16915, 17540.1, 17540.2, 17540.3, 17540.4, 17540.8, 25103, and 25120 of, and to add Section 25005.1 to, the Corporations Code, relating to business entities.

[Approved by Governor July 24, 2000. Filed with
Secretary of State July 24, 2000.]

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

SECTION 1. Section 1108 of the Corporations Code is amended to read:

1108. (a) The merger of any number of domestic corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect the merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a domestic corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter governing the merger of domestic corporations, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and of Section 407 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) (with respect to any domestic constituent corporations), the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a domestic corporation, the agreement and the officers' certificate of each domestic or foreign constituent corporation shall be filed as provided in Section 1103, or the certificate of ownership shall be filed as provided in Section 1110, and thereupon, subject to subdivision (c) of Section 110, the merger shall be effective as to each domestic constituent corporation; and each foreign disappearing corporation that is qualified for the transaction of intrastate business shall by virtue of the filing, subject to subdivision (c) of Section 110, automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but, except as provided in subdivision (e), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations the documents described in any one of the following paragraphs:

(1) A copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original.

(2) An executed counterpart of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger.

(3) A copy of the agreement of merger with an officers' certificate of the surviving foreign corporation and of each constituent domestic corporation attached, which officers' certificates shall conform to the requirements of Section 1103.

(4) A certificate of ownership pursuant to Section 1110.

(e) If the date of the filing in this state pursuant to subdivision (d) is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of the domestic corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation or corporations as of the date of filing in this state. Each foreign disappearing corporation that is qualified for the transaction of intrastate business shall, by virtue of the filing pursuant to subdivision (d), automatically surrender its right to transact intrastate business as of the date of filing in this state regardless of the time of effectiveness as to a domestic disappearing corporation.

(f) The provisions of the last two sentences of Section 1101 and Chapter 12 (commencing with Section 1200) and Chapter 13 (commencing with Section 1300) apply to the rights of the shareholders of any of the constituent corporations that are domestic corporations and of any domestic corporation that is a parent party of any foreign constituent corporation.

(g) A certificate of satisfaction of the Franchise Tax Board shall be filed when required by Section 1103 or 1110 or when required by Section 23334 of the Revenue and Taxation Code.

SEC. 2. Section 1113 of the Corporations Code is amended to read:

1113. (a) Any one or more corporations may merge with one or more other business entities (Section 174.5). One or more domestic corporations (Section 167) not organized under this division and one or more foreign corporations (Section 171) may be parties to the merger. Notwithstanding the provisions of this section, the merger of any number of corporations with any number of other business entities may be effected only if:

(1) In a merger in which a domestic corporation not organized under this division or a domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve, and shall be a party to, an agreement of merger. Other persons, including a parent party (Section 1200), may be parties to the agreement of merger. The board of each corporation which desires to merge, and, if required the shareholders, shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each party by those persons required to approve the merger by the laws under which it is organized. The agreement of merger shall state:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party to the merger and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 900 and 907, to the articles of the surviving corporation, if applicable, to be effected by the merger. If any amendment changes the name of the surviving corporation, if applicable, the new name may be, subject to subdivision (b) of Section 201, the same as or similar to the name of a disappearing party to the merger.

(4) The manner of converting the shares of each constituent corporation into shares, interests, or other securities of the surviving party. If any shares of any constituent corporation are not to be converted solely into shares, interests or other securities of the surviving party, the agreement of merger shall state (i) the cash, rights, securities, or other property which the holders of those shares are to receive in exchange for the shares, which cash, rights, securities, or other property may be in addition to or in lieu of shares, interests or other securities of the surviving party, or (ii) that the shares are canceled without consideration.

(5) Any other details or provisions required by the laws under which any party to the merger is organized, including, if a public benefit corporation or a religious corporation is a party to the merger, Section 6019.1, or, if a mutual benefit corporation is a party to the merger, Section 8019.1, or, if a consumer cooperative corporation is a party to the merger, Section 12540.1, or, if a domestic limited partnership is a party to the merger, Section 15678.2, or, if a domestic partnership is a party to the merger, Section 16911, or, if a domestic limited liability company is a party to the merger, Section 17551.

(6) Any other details or provisions as are desired, including, without limitation, a provision for the payment of cash in lieu of fractional shares or for any other arrangement with respect thereto consistent with the provisions of Section 407.

(c) Each share of the same class or series of any constituent corporation (other than the cancellation of shares held by a party to the merger or its parent, or a wholly owned subsidiary of either, in another constituent corporation) shall, unless all shareholders of the class or series consent and except as provided in Section 407, be treated equally

with respect to any distribution of cash, rights, securities, or other property. Notwithstanding paragraph (4) of subdivision (b), the nonredeemable common shares of a constituent corporation may be converted only into nonredeemable common shares of a surviving corporation or a parent party (Section 1200) or nonredeemable equity securities of a surviving party other than a corporation if another party to the merger or its parent owns, directly or indirectly, prior to the merger shares of that corporation representing more than 50 percent of the voting power of that corporation, unless all of the shareholders of the class consent and except as provided in Section 407.

(d) Notwithstanding its prior approval, an agreement of merger may be amended prior to the filing of the agreement of merger or the certificate of merger, as is applicable, if the amendment is approved by the board of each constituent corporation and, if the amendment changes any of the principal terms of the agreement, by the outstanding shares (Section 152), if required by Chapter 12 (commencing with Section 1200), in the same manner as the original agreement of merger. If the agreement of merger as so amended and approved is also approved by each of the other parties to the agreement of merger, the agreement of merger as so amended shall then constitute the agreement of merger.

(e) The board of a constituent corporation may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other parties to the agreement of merger, without further approval by the outstanding shares (Section 152), at any time before the merger is effective.

(f) Each constituent corporation shall sign the agreement of merger by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary acting on behalf of their respective corporations.

(g) (1) If the surviving party is a corporation or a foreign corporation, or if a public benefit corporation (Section 5060), a mutual benefit corporation (Section 5059), a religious corporation (Section 5061), or a corporation organized under the Consumer Cooperative Corporation Law (Section 12200) is a party to the merger, after required approvals of the merger by each constituent corporation through approval of the board (Section 151) and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200) and by the other parties to the merger, the surviving party shall file a copy of the agreement of merger with an officers' certificate of each constituent domestic and foreign corporation attached stating the total number of outstanding shares or membership interests of each class entitled to vote on the merger (and identifying any other person or persons whose approval is required), that the agreement of merger in the form attached or its principal terms, as required, were approved by that corporation by

a vote of a number of shares or membership interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class and, if applicable, by that other person or persons whose approval is required, or that the merger agreement was entitled to be and was approved by the board alone (as provided in Section 1201, in the case of corporations subject to that section). If equity securities of a parent party (Section 1200) are to be issued in the merger, the officers' certificate of that controlled party shall state either that no vote of the shareholders of the parent party was required or that the required vote was obtained. In lieu of an officers' certificate, a certificate of merger, on a form prescribed by the Secretary of State, shall be filed for each constituent other business entity. The certificate of merger shall be executed and acknowledged by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its articles or organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact, and by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth, if a vote of the shareholders, members, partners, or other holders of interests of the constituent other business entity was required, a statement setting forth the total number of outstanding interests of each class entitled to vote on the merger and that the agreement of merger in the form attached or its principal terms, as required, were approved by a vote of the number of interests of each class that equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, and any other information required to be set forth under the laws under which the constituent other business entity is organized, including, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4, if a domestic partnership is a party to the merger, subdivision

(b) of Section 16915, and, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552. The certificate of merger for each constituent foreign other business entity, if any, shall also set forth the statutory or other basis under which that foreign other business entity is authorized by the laws under which it is organized to effect the merger. The merger and any amendment of the articles of the surviving corporation, if applicable, contained in the agreement of merger shall be effective upon filing of the agreement of merger with an officer's certificate of each constituent domestic and foreign corporation and a certificate of merger for each constituent other business entity, subject to subdivision (c) of Section 110 and subject to the provisions of subdivision (j), and the several parties thereto shall be one entity. The agreement of merger shall not be filed, however, until there has been filed by or on behalf of each party to the merger taxed under the Bank and Corporation Tax Law, the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by that law have been paid or secured. If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger, the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger pursuant to Section 1555 of the Insurance Code. The Secretary of State may certify a copy of the agreement of merger separate from the officers' certificates and certificates of merger attached thereto.

(2) If the surviving entity is an other business entity, and no public benefit corporation (Section 5060), mutual benefit corporation (Section 5059), religious corporation (Section 5061), or corporation organized under the Consumer Cooperative Corporation Law (Section 12200) is a party to the merger, after required approvals of the merger by each constituent corporation through approval of the board (Section 151) and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200) and by the other parties to the merger, the parties to the merger shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each constituent domestic and foreign corporation by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary and by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number

is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact. The certificate of merger shall be signed by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth all of the following:

(A) The name, place of incorporation or organization, and the Secretary of State's file number, if any, of each party to the merger, separately identifying the disappearing parties and the surviving party.

(B) If the approval of the outstanding shares of a constituent corporation was required by Chapter 12 (commencing with Section 1200), a statement setting forth the total number of outstanding shares of each class entitled to vote on the merger and that the principal terms of the agreement of merger were approved by a vote of the number of shares of each class entitled to vote and the percentage vote required of each class.

(C) The future effective date or time, not more than 90 days subsequent to the date of filing of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(D) A statement, by each party to the merger which is a domestic corporation not organized under this division, a foreign corporation, or an other business entity, of the statutory or other basis under which that party is authorized by the laws under which it is organized to effect the merger.

(E) Any other information required to be stated in the certificate of merger by the laws under which each party to the merger is organized, including, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552, if a domestic partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4.

(F) Any other details or provisions that may be desired.

Unless a future effective date or time is provided in a certificate of merger, in which event the merger shall be effective at that future effective date or time, a merger shall be effective upon the filing of the

certificate of merger in the office of the Secretary of State and the several parties thereto shall be one entity. The certificate of merger shall not be filed, however, until there has been filed by or on behalf of each party to the merger that is taxed under the Bank and Corporation Tax Law, the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by the Bank and Corporation Tax Law have been paid or secured. The surviving other business entity shall keep a copy of the agreement of merger at its principal place of business which, for purposes of this subdivision, shall be the office referred to in Section 17057 if a domestic limited liability company, at the business address specified in paragraph (5) of subdivision (a) of Section 17552 if a foreign limited liability company, at the office referred to in subdivision (a) of Section 16403 if a domestic general partnership, at the business address specified in subdivision (f) of Section 16911 if a foreign partnership, at the office referred to in subdivision (a) of Section 15614 if a domestic limited partnership, or at the business address specified in paragraph (5) of subdivision (a) of Section 15678.4 if a foreign limited partnership. Upon the request of a holder of equity securities of a party to the merger, a person with authority to do so on behalf of the surviving other business entity shall promptly deliver to that holder, a copy of the agreement of merger. A waiver by that holder of the rights provided in the foregoing sentence shall be unenforceable. If a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance is a party to the merger the agreement of merger or certificate of merger shall not be filed until there has been filed the certificate issued by the Insurance Commissioner approving the merger in accordance with Section 1555 of the Insurance Code.

(h) (1) A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving party to the merger and the performance of the conditions necessary to the adoption of any amendment to the articles, if applicable, contained in the agreement of merger.

(2) For all purposes for a merger in which the surviving entity is a domestic other business entity and the filing of a certificate of merger is required by paragraph (2) of subdivision (g), a copy of the certificate of merger duly certified by the Secretary of State is conclusive evidence of the merger of the constituent corporations, either by themselves or together with the other parties to the merger, into the surviving other business entity.

(i) (1) Upon a merger pursuant to this section, the separate existences of the disappearing parties to the merger cease and the surviving party to the merger shall succeed, without other transfer, to all the rights and property of each of the disappearing parties to the merger and shall be subject to all the debts and liabilities of each in the same manner as if the surviving party to the merger had itself incurred them.

(2) All rights of creditors and all liens upon the property of each of the constituent corporations and other parties to the merger shall be preserved unimpaired, provided that those liens upon property of a disappearing party shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(3) Any action or proceeding pending by or against any disappearing corporation or disappearing party to the merger may be prosecuted to judgment, which shall bind the surviving party, or the surviving party may be proceeded against or substituted in its place.

(4) If a limited partnership or a general partnership is a party to the merger, nothing in this section is intended to affect the liability a general partner of a disappearing limited partnership or general partnership may have in connection with the debts and liabilities of the disappearing limited partnership or general partnership existing prior to the time the merger is effective.

(j) (1) The merger of domestic corporations with foreign corporations or foreign other business entities in a merger in which one or more other business entities is a party shall comply with subdivision (a) and this subdivision.

(2) If the surviving party is a domestic corporation or domestic other business entity, the merger proceedings with respect to that party and any domestic disappearing corporation shall conform to the provisions of this section. If the surviving party is a foreign corporation or foreign other business entity, then, subject to the requirements of subdivision (c), and of Section 407 and Chapter 12 (commencing with Section 1200) and Chapter 13 (commencing with Section 1300), and, if applicable, corresponding provisions of the Nonprofit Corporation Law or the Consumer Cooperative Corporation Law, with respect to any domestic constituent corporations, Chapter 13 (commencing with Section 17600) of Title 2.5 with respect to any domestic constituent limited liability companies, Article 6 (commencing with Section 16601) of Chapter 5 of Title 2 with respect to any domestic constituent general partnerships, and Article 7.6 (commencing with Section 15679.1) of Chapter 3 of Title 2 with respect to any domestic constituent limited partnerships, the merger proceedings may be in accordance with the laws of the state or place of incorporation or organization of the surviving party.

(3) If the surviving party is a domestic corporation or domestic other business entity, the certificate of merger or the agreement of merger with

attachments shall be filed as provided in subdivision (g) and thereupon, subject to subdivision (c) of Section 110 or paragraph (2) of subdivision (g), as is applicable, the merger shall be effective as to each domestic constituent corporation and domestic constituent other business entity.

(4) If the surviving party is a foreign corporation or foreign other business entity, the merger shall become effective in accordance with the law of the jurisdiction in which the surviving party is organized, but, except as provided in paragraph (5), the merger shall be effective as to any domestic disappearing corporation as of the time of effectiveness in the foreign jurisdiction upon the filing in this state of a copy of the agreement of merger with an officers' certificate of each constituent foreign and domestic corporation and a certificate of merger of each constituent other business entity attached, which officers' certificates and certificates of merger shall conform to the requirements of paragraph (1) of subdivision (g). If one or more domestic other business entities is a disappearing party in a merger pursuant to this subdivision in which a foreign other business entity is the surviving entity, a certificate of merger required by the laws under which that domestic other business entity is organized, including subdivision (a) of Section 15678.4, subdivision (b) of Section 16915, or subdivision (a) of Section 17552, as is applicable, shall also be filed at the same time as the filing of the agreement of merger.

(5) If the date of the filing in this state pursuant to this subdivision is more than six months after the time of the effectiveness in the foreign jurisdiction, or if the powers of a domestic disappearing corporation are suspended at the time of effectiveness in the foreign jurisdiction, the merger shall be effective as to the domestic disappearing corporation as of the date of filing in this state.

(6) In a merger described in paragraph (3) or (4), each foreign disappearing corporation that is qualified for the transaction of intrastate business shall by virtue of the filing pursuant to this subdivision, subject to subdivision (c) of Section 110, automatically surrender its right to transact intrastate business in this state. The filing of the agreement of merger or certificate of merger, as is applicable, pursuant to this subdivision, by a disappearing foreign other business entity registered for the transaction of intrastate business in this state shall, by virtue of that filing, subject to subdivision (c) of Section 110, automatically cancels the registration for that foreign other business entity, without the necessity of the filing of a certificate of cancellation.

(7) A certificate of satisfaction of the Franchise Tax Board for each disappearing party to the merger shall be filed when required by subdivision (g) or when required by Section 23334 of the Revenue and Taxation Code.

SEC. 3. Section 2113 of the Corporations Code is amended to read:

2113. (a) The filing of an agreement of merger of a foreign disappearing corporation qualified to transact intrastate business in this state pursuant to Section 1103, or the filing pursuant to subdivision (d) of Section 1108 of an agreement, certificate, or other document as to a merger that includes a disappearing foreign corporation qualified to transact intrastate business, or the filing of a certificate of ownership as to a foreign subsidiary corporation qualified to transact intrastate business in this state pursuant to Section 1110, or the filing by a foreign corporation qualified to transact intrastate business in this state of an organizational document containing a statement of conversion pursuant to Section 15677.8, 16908, or 17540.8, constitutes the surrender by the foreign corporation of its right to engage in intrastate business within this state.

(b) With respect to corporations for which documents have not been filed as provided in subdivision (a), a certificate of surrender as prescribed by Section 2112 shall be filed by a foreign corporation qualified to transact intrastate business upon its merger into another foreign corporation.

(c) In lieu of a signature as prescribed by Section 2112, a certificate of surrender pursuant to subdivision (b) for a merged foreign corporation may be signed in the name of the surviving corporation by an officer thereof. In that case, the certificate of surrender shall be accompanied by a certificate of an authorized public official of the state or place of incorporation of the merged foreign corporation stating that the corporation has been merged into another foreign corporation and setting forth the name and state or place of incorporation of the surviving foreign corporation.

SEC. 4. Section 15677.1 of the Corporations Code is amended to read:

15677.1. For purposes of this article, the following definitions shall apply:

(a) ''Converted entity'' means the other business entity or foreign other business entity or foreign limited partnership that results from a conversion of a domestic limited partnership under this chapter.

(b) ''Converted limited partnership'' means a domestic limited partnership that results from a conversion of an other business entity or a foreign other business entity or a foreign limited partnership pursuant to Section 15677.8.

(c) ''Converting limited partnership'' means a domestic limited partnership that converts to an other business entity or a foreign other business entity or a foreign limited partnership pursuant to this chapter.

(d) ''Converting entity'' means an other business entity or a foreign other business entity or a foreign limited partnership that converts to a domestic limited partnership pursuant to the terms of Section 15677.8.

SEC. 5. Section 15677.2 of the Corporations Code is amended to read:

15677.2. A limited partnership may be converted into an other business entity or a foreign other business entity or a foreign limited partnership pursuant to this article if, pursuant to the proposed conversion, each of the partners of the converting limited partnership receives a percentage interest in the profits and capital of the converted entity equal to that partner's percentage interest in profits and capital of the converting limited partnership as of the effective time of the conversion. The conversion of a limited partnership to an other business entity or a foreign other business entity or a foreign limited partnership may be effected only if both of the following conditions are satisfied:

(a) The law under which the converted entity will exist expressly permits the formation of that entity pursuant to a conversion.

(b) The limited partnership complies with all other requirements of any other law that applies to conversion to the converted entity.

SEC. 6. Section 15677.3 of the Corporations Code is amended to read:

15677.3. (a) A limited partnership that desires to convert to an other business entity or a foreign other business entity or a foreign limited partnership shall approve a plan of conversion. The plan of conversion shall state all of the following:

(1) The terms and conditions of the conversion.

(2) The place of the organization of the converted entity and of the converting limited partnership and the name of the converted entity after conversion.

(3) The manner of converting the limited and general partnership interests of each of the partners into securities of, or interests in, the converted entity.

(4) The provisions of the governing documents for the converted entity, including the partnership agreement or limited liability company articles of organization and operating agreement, to which the holders of interests in the converted entity are to be bound.

(5) Any other details or provisions that are required by the laws under which the converted entity is organized, or that are desired by the parties.

(b) The plan of conversion shall be approved by all general partners of the converting limited partnership and by a majority in interest of each class of limited partners of the converting limited partnership, unless a greater or lesser approval is required by the partnership agreement of the converting limited partnership. However, if the limited partners of the limited partnership would become personally liable for any obligations of the converted entity as a result of the conversion, the plan of conversion shall be approved by all of the limited partners of the converting limited partnership, unless the plan of conversion provides

that all limited partners will have dissenters' rights as provided in Article 7.6 (commencing with Section 15679.1).

(c) Upon the effectiveness of the conversion, all partners of the converting limited partnership, except those that exercise dissenters' rights as provided in Article 7.6 (commencing with Section 15679.1), shall be deemed parties to any governing documents for the converted entity adopted as part of the plan of conversion, irrespective of whether or not the partner has executed the plan of conversion or the governing documents for the converted entity. Any adoption of governing documents made pursuant thereto shall be effective at the effective time or date of the conversion.

(d) Notwithstanding its prior approval, a plan of conversion may be amended before the conversion takes effect if the amendment is approved by all general partners of the converting limited partnership and, if the amendment changes any of the principal terms of the plan of conversion, the amendment is approved by the limited partners of the converting limited partnership in the same manner and to the same extent as required for the approval of the original plan of conversion.

(e) The general partners of a converting limited partnership may, by unanimous approval at any time before the conversion is effective, in their discretion, abandon a conversion, without further approval by the limited partners, subject to the contractual rights of third parties other than limited partners.

(f) The converted entity shall keep the plan of conversion at the principal place of business of the converted entity if the converted entity is a domestic partnership or foreign other business entity or at the office at which records are to be kept under Section 17057 if the converted entity is a domestic limited liability company. Upon the request of a partner of a converting limited partnership, the authorized person on behalf of the converted entity shall promptly deliver to the partner or the holder of interests or other securities, at the expense of the converted entity, a copy of the plan of conversion. A waiver by a partner of the rights provided in this subdivision shall be unenforceable.

SEC. 7. Section 15677.4 of the Corporations Code is amended to read:

15677.4. (a) A conversion into an other business entity or a foreign other business entity or a foreign limited partnership shall become effective upon the earliest date that all of the following occur:

(1) The approval of the plan of conversion by the partners of the converting limited partnership as provided in Section 15677.3.

(2) The filing of all documents required by law to create the converted entity, which documents shall also contain a statement of conversion, if required under Section 15677.6.

(3) The occurrence of the effective date, if set forth in the plan of conversion occurs.

(b) A copy of the statement of partnership authority or articles of organization complying with Section 15677.6, if applicable, duly certified by the Secretary of State, is conclusive evidence of the conversion of the limited partnership.

SEC. 8. Section 15677.8 of the Corporations Code is amended to read:

15677.8. (a) An other business entity or a foreign other business entity or a foreign limited partnership may be converted to a domestic limited partnership pursuant to this article only if the converting entity is authorized by the laws under which it is organized to effect the conversion.

(b) An other business entity or a foreign other business entity or a foreign limited partnership that desires to convert into a domestic limited partnership shall approve a plan of conversion or an other instrument as is required to be approved to effect the conversion pursuant to the laws under which that entity is organized.

(c) The conversion of an other business entity or a foreign other business entity or a foreign limited partnership into a domestic limited partnership shall be approved by the number or percentage of the partners, members, or holders of interest of the converting entity as is required by the laws under which that entity is organized, or a greater or lesser percentage, subject to applicable laws, as set forth in the converting entity's partnership agreement, articles of organization, operating agreement, or other governing document.

(d) The conversion by an other business entity or a foreign other business entity or a foreign limited partnership into a domestic limited partnership shall be effective under this article at the time the conversion is effective under the laws under which the converting entity is organized as long as a certificate of limited partnership containing a statement of conversion has been filed with the Secretary of State. If the converting entity's governing law is silent as to the effectiveness of the conversion, the conversion shall be effective upon the completion of all acts required under this title to form a limited partnership.

(e) The filing with the Secretary of State of a certificate of conversion or a certificate of limited partnership containing a statement of conversion pursuant to subdivision (a) shall have the effect of the filing of a certificate of cancellation by the converting foreign limited partnership or foreign limited liability company and no converting foreign limited partnership or foreign limited liability company that has made the filing is required to file a certificate of cancellation under Section 15696 or 17455 as a result of that conversion. If a converting other business entity is a foreign corporation qualified to transact

business in this state, the foreign corporation shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

SEC. 9. Section 16908 of the Corporations Code is amended to read:

16908. (a) A domestic limited partnership or limited liability company or a foreign other business entity may be converted to a domestic partnership pursuant to this article, but only if the converting entity is authorized by the laws under which it is organized to effect the conversion.

(b) An entity that desires to convert into a domestic partnership shall approve a plan of conversion or the instrument that is required to be approved to effect the conversion pursuant to the laws under which the entity is organized.

(c) The conversion of a domestic limited partnership or limited liability company or foreign other business entity shall be approved by the number or percentage of the partners, members, or holders of interest of the converting entity as is required by the law under which the entity is organized, or a greater or lesser percentage (subject to applicable laws) as set forth in the limited partnership agreement, articles of organization, or operating agreement or other governing document for the converting entity.

(d) The conversion by a domestic limited partnership or limited liability company or a foreign other business entity into a partnership shall be effective under this article at the time that the conversion is effective under the laws under which the converting entity is organized.

(e) The filing with the Secretary of State of a certificate of conversion or a statement of partnership authority containing a statement of conversion pursuant to subdivision (a) shall have the effect of the filing of a certificate of cancellation by the converting foreign limited partnership or foreign limited liability company, and no converting foreign limited partnership or foreign limited liability company that has made the filing is required to file a certificate of cancellation under Section 15696 or 17455 as a result of that conversion. If a converting other business entity is a foreign corporation qualified to transact business in this state, the foreign corporation shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

SEC. 10. Section 16914 of the Corporations Code is amended to read:

16914. (a) When a merger takes effect, all of the following apply:

(1) The separate existence of the disappearing partnerships and disappearing other business entities ceases and the surviving partnership or surviving other business entity shall succeed, without other transfer, act or deed, to all the rights and property whether real, personal, or mixed, of each of the disappearing partnerships and disappearing other business entities and shall be subject to all the debts and liabilities of

each in the same manner as if the surviving partnership or surviving other business entity had itself incurred them.

(2) All rights of creditors and all liens upon the property of each of the constituent partnerships and constituent other business entities shall be preserved unimpaired and may be enforced against the surviving partnership or the surviving other business entity to the same extent as if the debt, liability or duty that gave rise to that lien had been incurred or contracted by it, provided that those liens upon the property of a disappearing partnership or disappearing other business entity shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(3) Any action or proceeding pending by or against any disappearing partnership or disappearing other business entity may be prosecuted to judgment, which shall bind the surviving partnership or surviving other business entity, or the surviving partnership or surviving other business entity may be proceeded against or be substituted in the disappearing partnership's or the disappearing other business entity's place.

(b) (1) Unless a certificate of merger has been filed to effect the merger, the surviving foreign entity shall promptly notify the Secretary of State of the mailing address of its agent for service of process, its chief executive office, and of any change of address. To enforce an obligation of a partnership that has merged with a foreign partnership or foreign other business entity, the Secretary of State shall only be the agent for service of process in an action or proceeding against the surviving foreign partnership or foreign other business entity, if the agent designated for the service of process for that entity is a natural person and cannot be located with due diligence or if the agent is a corporation and no person to whom delivery may be made can be located with due diligence, or if no agent has been designated and if no one of the officers, partners, managers, members, or agents of the entity can be located after diligent search, and it is so shown by affidavit to the satisfaction of the court. The court then may make an order that service be made by personal delivery to the Secretary of State or to an assistant or deputy Secretary of State of two copies of the process together with two copies of the order, and the order shall set forth an address to which the process shall be sent by the Secretary of State. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State.

(2) Upon receipt of the process and order and the fee set forth in Section 12206 of the Government Code, the Secretary of State shall give notice to the entity of the service of the process by forwarding by certified mail, return receipt requested, a copy of the process and order to the address specified in the order.

(3) The Secretary of State shall keep a record of all process served upon the Secretary of State and shall record therein the time of service and the Secretary of State's action with respect thereto. The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the entity, and the forwarding of the process, shall be competent and prima facie evidence of the matters stated therein.

(c) A partner of the surviving partnership or surviving limited partnership, a member of the surviving limited liability company, a shareholder of the surviving corporation, or a holder of equity securities of the surviving other business entity, is liable for all of the following:

(1) All obligations of a party to the merger for which that person was personally liable before the merger.

(2) All other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity.

(3) All obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if that person is a limited partner, a shareholder in a corporation, or, unless expressly provided otherwise in the articles of organization or other constituent documents, a member of a limited liability company or a holder of equity securities in a surviving other business entity.

(d) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or surviving other business entity, the general partners of that party immediately before the effective date of the merger, to the extent that party was a partnership or a limited partnership, shall contribute the amount necessary to satisfy that party's obligations to the surviving entity in the manner provided in Section 16807 or in the limited partnership act of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.

(e) A partner of a domestic disappearing partnership who does not vote in favor of the merger and does not agree to become a partner, member, shareholder, or holder of interest or equity securities of the surviving partnership or surviving other business entity shall have the right to dissociate from the partnership as of the date the merger takes effect. Within 10 days after the approval of the merger by the partners as required under this article, each domestic disappearing partnership shall send notice of the approval of the merger to each partner that has not approved the merger, accompanied by a copy of Section 16701 and a brief description of the procedure to be followed under that section if the partner wishes to dissociate from the partnership. A partner that desires to dissociate from a disappearing partnership shall send written

notice of that dissociation within 30 days after the date of the notice of the approval of the merger. The disappearing partnership shall cause the partner's interest in the entity to be purchased under Section 16701. The surviving entity is bound under Section 16702 by an act of a general partner dissociated under this subdivision, and the partner is liable under Section 16703 for transactions entered into by the surviving entity after the merger takes effect. The disassociation of a partner in connection with a merger pursuant to the terms of this subdivision shall not be deemed a wrongful disassociation under Section 16602.

SEC. 11. Section 16915 of the Corporations Code is amended to read:

16915. (a) In a merger involving a domestic partnership, in which another partnership or a foreign other business entity is a party, but in which no other domestic other business entity is a party, the surviving partnership or surviving foreign other business entity may file with the Secretary of State a statement that one or more partnerships have merged into the surviving partnership or surviving foreign other business entity, or that one or more partnerships or foreign other business entities have merged into the surviving domestic partnership. A statement of merger shall contain the following:

(1) The name of each partnership or foreign other business entity that is a party to the merger.

(2) The name of the surviving entity into which the other partnerships or foreign other business entities were merged.

(3) The street address of the surviving entity's chief executive office and of an office in this state, if any.

(4) Whether the surviving entity is a partnership or a foreign other business entity, specifying the type of the entity.

(b) In a merger involving a domestic partnership in which a domestic other business entity is also a party, after approval of the merger by the constituent partnerships and any constituent other business entities, the constituent partnerships and constituent other business entities shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State, but if the surviving entity is a domestic corporation or a foreign corporation in a merger in which a domestic corporation is a constituent party, the surviving corporation shall file in the office of the Secretary of State a copy of the agreement of merger and attachments required under paragraph (1) of subdivision (g) of Section 1113. The certificate of merger shall be executed and acknowledged by each domestic constituent partnership by two partners (unless a lesser number is provided in the partnership agreement) and by each foreign constituent partnership by one or more partners, and by each constituent other business entity by those persons required to execute the certificate of

merger by the laws under which the constituent other business entity is organized. The certificate of merger shall set forth all of the following:

(1) The names and the Secretary of State's file numbers, if any, of each of the constituent partnerships and constituent other business entities, separately identifying the disappearing partnerships and disappearing other business entities and the surviving partnership or surviving other business entity.

(2) If a vote of the partners was required under Section 16911, a statement that the principal terms of the agreement of merger were approved by a vote of the partners, which equaled or exceeded the vote required.

(3) If the surviving entity is a domestic partnership and not an other business entity, any change to the information set forth in any filed statement of partnership authority of the surviving partnership resulting from the merger, including any change in the name of the surviving partnership resulting from the merger. The filing of a certificate of merger setting forth any changes to any filed statement of partnership authority of the surviving partnership shall have the effect of the filing of a certificate of amendment of the statement of partnership authority by the surviving partnership, and the surviving partnership need not file a certificate of amendment under Section 16015 to reflect those changes.

(4) The future effective date or time (which shall be a date or time certain not more than 90 days subsequent to the date of filing) of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(5) If the surviving entity is an other business entity or a foreign partnership, the full name, type of entity, legal jurisdiction in which the entity was organized and by whose laws its internal affairs are governed, and the address of the principal place of business of the entity.

(6) Any other information required to be stated in the certificate of merger by the laws under which each constituent other business entity is organized.

(c) A statement of merger or a certificate of merger, as is applicable under subdivision (a) or (b), shall have the effect of the filing of a cancellation for each disappearing partnership of any statement of partnership authority filed by it.

SEC. 12. Section 17540.1 of the Corporations Code is amended to read:

17540.1. For purposes of this chapter, the following definitions shall apply:

(a) ''Converted entity'' means the other business entity or foreign other business entity or foreign limited liability company that results from a conversion of a domestic limited liability company under this chapter.

(b) ''Converted limited liability company'' means a domestic limited liability company that results from a conversion of an other business entity or a foreign other business entity or a foreign limited liability company pursuant to Section 17540.8.

(c) ''Converting limited liability company'' means a domestic limited liability company that converts to an other business entity or a foreign other business entity or a foreign limited liability company pursuant to this chapter.

(d) ''Converting entity'' means an other business entity or a foreign other business entity or a foreign limited liability company that converts to a domestic limited liability company pursuant to the terms of Section 17540.8.

SEC. 13. Section 17540.2 of the Corporations Code is amended to read:

17540.2. A limited liability company may be converted into an other business entity or a foreign other business entity or a foreign limited liability company pursuant to this chapter if, pursuant to the proposed conversion, each of the members of the converting limited liability company would receive a percentage interest in profits and capital of the converted entity equal to that member's percentage interest in profits and capital of the converting limited liability company as of the effective time of the conversion. Notwithstanding this section, the conversion of a limited liability company to an other business entity or a foreign other business entity or a foreign limited liability company may be effected only if both of the following conditions are complied with:

(a) The law under which the converted entity will exist expressly permits the formation of that entity pursuant to a conversion.

(b) The limited liability company complies with any and all other requirements of any other law that applies to conversion to the converted entity.

SEC. 14. Section 17540.3 of the Corporations Code is amended to read:

17540.3. (a) A limited liability company that desires to convert to an other business entity or a foreign other business entity or a foreign limited liability company shall approve a plan of conversion.

The plan of conversion shall state all of the following:

(1) The terms and conditions of the conversion.

(2) The place of the organization of the converted entity and of the converting limited liability company and the name of the converted entity after conversion.

(3) The manner of converting the membership interests of each of the members into securities of, or interests in, the converted entity.

(4) The provisions of the governing documents for the converted entity, including the partnership agreement, to which the holders of interests in the converted entity are to be bound.

(5) Any other details or provisions that are required by the laws under which the converted entity is organized, or that are desired by the parties.

(b) The plan of conversion shall be approved by a vote of a majority in interest of the members of the converting limited liability company, or a greater percentage of the voting interests of members as may be specified in the articles of organization or written operating agreement of the converting limited liability company. However, if the members of the limited liability company would become personally liable for any obligations of the converted entity as a result of the conversion, the plan of conversion shall be approved by all of the members of the converting limited liability company, unless the plan of conversion provides that all members will have dissenters' rights as provided in Chapter 13 (commencing with Section 17600).

(c) If the limited liability company is converting into a limited partnership, then in addition to the approval of the members set forth in subdivision (b), the plan of conversion shall be approved by those members who will become general partners of the converted limited partnership pursuant to the plan of conversion.

(d) Upon the effectiveness of the conversion, all members of the converting limited liability company, except those that exercise dissenters' rights as provided in Chapter 13 (commencing with Section 17600) shall be deemed parties to any governing documents for the converted entity adopted as part of the plan of conversion, irrespective of whether or not a member has executed the plan of conversion or such governing documents for the converted entity. Any adoption of governing documents made pursuant thereto shall be effective at the effective time or date of the conversion.

(e) Notwithstanding its prior approval, a plan of conversion may be amended before the conversion takes effect if the amendment is approved by the members of the converting limited liability company in the same manner as was required for approval of the original plan of conversion.

(f) A plan of conversion may be abandoned by the members of a converting limited liability company in the manner as required for approval of the plan of conversion, subject to the contractual rights of third parties, at any time before the conversion is effective.

(g) The converted entity shall keep the plan of conversion at the principal place of business of the converted entity if the converted entity is a domestic partnership or foreign other business entity or at the office at which records are to be kept under Section 15614 if the converted entity is a domestic limited partnership. Upon the request of a member

of a converting limited liability company, the authorized person on behalf of the converted entity shall promptly deliver to the member or the holder of interests or other securities, at the expense of the converted entity, a copy of the plan of conversion. A waiver by a member of the rights provided in this subdivision shall be unenforceable.

SEC. 15. Section 17540.4 of the Corporations Code is amended to read:

17540.4. (a) A conversion into an other business entity or a foreign other business entity or a foreign limited liability company shall become effective upon the earliest date that all of the following occur:

(1) The approval of the plan of conversion by the members of the converting limited liability company as provided in Section 17540.3.

(2) The filing of all documents required by law to effect the conversion and create the converted entity, which documents shall also contain a statement of conversion, if required under Section 17540.6.

(3) The occurrence of the effective date, if set forth in the plan of conversion.

(b) A copy of the statement of partnership authority or certificate of limited partnership complying with Section 17540.6, if applicable, duly certified by the Secretary of State, is conclusive evidence of the conversion of the limited liability company.

SEC. 16. Section 17540.8 of the Corporations Code is amended to read:

17540.8. (a) An other business entity or a foreign other business entity or a foreign limited liability company may be converted to a domestic limited liability company pursuant to this chapter only if the converting entity is authorized by the laws under which it is organized to effect the conversion.

(b) An other business entity or a foreign other business entity or a foreign limited liability company that desires to convert into a domestic limited liability company shall approve a plan of conversion or an other instrument as is required to be approved to effect the conversion pursuant to the laws under which that entity is organized.

(c) The conversion of an other business entity or a foreign other business entity or a foreign limited liability company into a domestic limited liability company shall be approved by that number or percentage of the partners, members, or holders of interest of the converting entity as is required by the laws under which that entity is organized, or a greater or lesser percentage, subject to applicable laws, as set forth in the converting entity's partnership agreement, articles of organization, operating agreement, or other governing document.

(d) The conversion by an other business entity or a foreign other business entity or a foreign limited liability company into a domestic limited liability company shall be effective under this chapter at the time

the conversion is effective under the laws under which the converting entity is organized as long as the articles of organization containing a statement of conversion have been filed with the Secretary of State. If the converting entity's governing law is silent as to the effectiveness of the conversion, the conversion shall be effective upon the completion of all acts required under this title to form a limited liability company.

(e) The filing with the Secretary of State of a certificate of conversion or articles of organization containing a statement of conversion pursuant to subdivision (a) shall have the effect of the filing of a certificate of cancellation by the converting foreign limited liability company or foreign limited partnership, and no converting foreign limited liability company or foreign limited partnership that has made the filing is required to file a certificate of cancellation under Section 15696 or 17455 as a result of that conversion. If a converting other business entity is a foreign corporation qualified to transact business in this state, the foreign corporation shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

SEC. 17. Section 25005.1 is added to the Corporations Code, to read:

25005.1. ''Entity conversion transaction'' means a conversion pursuant to Section 15677.2, 15677.8, 16902, 16908, 17540.2, or 17540.8 unless the interests in the entity resulting from the conversion to be held by the equity holders of the entity being converted as a result of the conversion are not securities. For purposes of Sections 25103 and 25120 an entity conversion transaction is not a change in the rights, preferences, privileges, or restrictions of or on outstanding securities or an exchange of securities by the issuer with its existing security holders exclusively.

SEC. 18. Section 25103 of the Corporations Code is amended to read:

25103. The following transactions are exempted from the provisions of Section 25110 and Section 25120:

(a) Any negotiations or agreements prior to general solicitation of approval by the holders of equity securities, and subject to that approval, of (1) a change in the rights, preferences, privileges, or restrictions of or on outstanding securities (2) a merger, consolidation, or sale of assets in consideration of the issuance of securities or (3) an entity conversion transaction.

(b) Any change in the rights, preferences, privileges, or restrictions of or on outstanding securities or any entity conversion transaction, unless the holders of at least 25 percent of the outstanding shares or units of any class of securities which will be directly or indirectly affected substantially and adversely by such change or transaction have addresses in this state according to the records of the issuer.

(c) Any exchange incident to a merger, consolidation, or sale of assets in consideration of the issuance of securities of another issuer, unless at least 25 percent of the outstanding securities of any class, any holders of which are to receive securities in the exchange, are held by persons who have addresses in this state, according to the records of the issuer of which they are holders. This exemption is not available for a rollup transaction as defined by Section 25014.6. The exemption is also not available for a transaction excluded from the definition of rollup transaction by virtue of paragraph (5) or (6) of subdivision (b) of Section 25014.6 if the transaction is one of a series of transactions that directly or indirectly through acquisition or otherwise involves the combination or reorganization of one or more rollup participants.

(d) For the purposes of subdivision (b) and subdivision (c) of this section, (1) any securities held to the knowledge of the issuer in the names of broker-dealers or nominees of broker-dealers and (2) any securities controlled by any one person who controls directly or indirectly 50 percent or more of the outstanding securities of that class shall not be considered outstanding. The determination of whether 25 percent of the outstanding securities are held by persons having addresses in this state, for the purposes of subdivision (b) and subdivision (c) of this section, shall be made as of the record date for the determination of the security holders entitled to vote on or consent to the action, if approval of those holders is required, or if not as of the date of directors' approval of that action.

(e) Any change (other than a stock split or reverse stock split) in the rights, preferences, privileges, or restrictions of or on outstanding equity securities, except the following if they materially and adversely affect any class of equity securities: (1) to add, change, or delete assessment provisions; (2) to change the rights to dividends thereon; (3) to change the redemption provisions; (4) to make them redeemable; (5) to change the amount payable on liquidation; (6) to change, add, or delete conversion rights; (7) to change, add, or delete voting rights; (8) to change, add, or delete preemptive rights; (9) to change, add, or delete sinking fund provisions; (10) to rearrange the relative priorities of outstanding equity securities; (11) to impose, change, or delete restrictions upon the transfer of equity securities in the organizational documents for the entity; (12) to change the right of holders of equity securities with respect to the calling of special meetings of holders of equity securities; and (13) to change, add, or delete any rights, preferences, privileges, or restrictions of, or on, the outstanding shares or memberships of a mutual water company or other corporation or entity organized primarily to provide services or facilities to its shareholders or members. Changes in the rights, preferences, privileges, or restrictions of or on outstanding equity securities do not materially

and adversely affect any class of holders of equity securities within the meaning of this subdivision if they arise from (i) the addition to articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the conversion of an existing corporation to a close corporation pursuant to subdivision (b) of Section 158, (ii) the deletion from the articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the voluntary termination of close corporation status pursuant to subdivisions (c) and (e) of Section 158, (iii) the involuntary cessation of close corporation status pursuant to subdivision (e) of Section 158, or (iv) the termination of a shareholders' agreement pursuant to subdivision (b) of Section 300.

(f) Any stock split or reverse stock split, except the following: (1) any stock split or reverse stock split if the corporation has more than one class of shares outstanding and the split would have a material effect on the proportionate interests of the respective classes as to voting, dividends, or distributions; (2) any stock split of a stock which is traded in the market and its market price as of the date of directors' approval of the stock split adjusted to give effect to the split was less than two dollars ($2) per share; and (3) any reverse stock split if the corporation has the option of paying cash for any fractional shares created by such reverse split and as a result of such action the proportionate interests of the shareholders would be substantially altered. Any shares issued upon a stock split or reverse stock split exempted by this subdivision shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

(g) Any change in the rights of outstanding debt securities, except the following if they substantially and adversely affect any class of securities: (1) to change the rights to interest thereon; (2) to change their redemption provisions; (3) to make them redeemable; (4) to extend the maturity thereof or to change the amount payable thereon at maturity; (5) to change their voting rights; (6) to change their conversion rights; (7) to change sinking fund provisions; and (8) to make them subordinate to other indebtedness.

(h) Any exchange incident to a merger, consolidation, or sale of assets, other than a rollup transaction (as defined in Section 25014.6), in consideration of the issuance of equity securities of another entity or any entity conversion transaction which meets the following conditions:

(1) The exchange incident to a merger, consolidation, or sale of assets or the entity conversion transaction, had the exchange transaction involved the issuance of a security in a transaction subject to the provisions of Section 25110, would have been exempt from qualification by subdivision (f) of Section 25102, without giving effect to subparagraph (3) thereof, and either of the following is applicable:

(A) (i) Not less than 75 percent of the outstanding equity securities of each constituent or converting entity entitled to vote on the proposed transaction voted in favor of the transaction, (ii) not more than 10 percent of the outstanding equity securities of each constituent or converting entity entitled to vote on the proposed transaction voted against the transaction, and (iii) each constituent or converting entity whose security holders are entitled to vote on the proposed transaction is subject to a state statute that has provisions for dissenters' rights for holders of equity securities entitled to vote on the proposed transaction that do not vote in favor of or voted against the transaction.

(B) (i) The transaction is solely for the purposes of changing the issuer's state of incorporation or organization, or form of organization, (ii) all the securities of the same class or series, unless all the security holders of the class or series consent, are treated equally, and (iii) the holders of nonredeemable voting equity securities receive nonredeemable voting equity securities.

(2) The commissioner may, by rule, require the acquiring or surviving entity to file a notice of transaction under this section. However, the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An acquiring or surviving entity that fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110 or 25120.

(i) Any exchange of securities in connection with any merger or consolidation or sale of corporate assets in consideration wholly or in part of the issuance of securities or any entity conversion transaction under, or pursuant to, a plan of reorganization or arrangement which pursuant to the provisions of the United States Bankruptcy Code has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

SEC. 19. Section 25120 of the Corporations Code is amended to read:

25120. It is unlawful for any person to offer or sell in this state any security (a) in an issuer transaction in connection with any change in the rights, preferences, privileges, or restrictions of or on outstanding securities or (b) in any exchange of securities by the issuer with its existing security holders exclusively (c) in any exchange in connection with any merger or consolidation or purchase of assets in consideration wholly or in part of the issuance of securities or (d) in an entity conversion transaction, unless the security is qualified for sale under this chapter (and no order under Section 25140 or subdivision (a) of Section 25143 is in effect with respect to such qualification) or unless such

security or transaction is exempted or not subject to qualification under Chapter 1 (commencing with Section 25100) of this part.

CHAPTER 202

An act to amend Section 17284.5 of the Education Code, relating to school facilities.

[Became law without Governor's signature. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 17284.5 of the Education Code is amended to read:

17284.5. (a) Notwithstanding any provision of law to the contrary, any waiver granted by the State Allocation Board to a school district for use of a nonconforming existing private building acquired for conversion for use as a school building, that had not expired prior to January 1, 2000, is hereby extended until January 1, 2002, if the work to make the building a conforming structure commenced prior to January 1, 2001, but had not been completed by that date.

CHAPTER 203

An act to amend Section 31582 of the Government Code, relating to county employees' retirement.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 31582 of the Government Code is amended to read:

31582. (a) The county auditor shall certify to the board at the end of each month or at the end of each pay period the compensation earnable, as defined in Section 31461, paid to all safety members of the retirement association covered by Article 7.5 (commencing with Section 31662) and the compensation earnable, as defined in Section 31461, paid to all other members of the retirement association, and the auditor shall thereupon transfer from the appropriation to the retirement fund the

percentage of this amount determined pursuant to Sections 31453, 31453.5 and 31454. Until that determination, the amount of the transfer shall be 23.77 percent of the compensation earnable, as defined in Section 31461, paid to all safety members covered by Article 7.5 (commencing with Section 31662) and 8.85 percent of the compensation earnable, as defined in Section 31461, paid to all other members.

(b) The board of supervisors may authorize the county auditor to make an advance payment of all or part of the county's estimated annual contribution to the retirement fund, provided that the payment is made within 30 days after the commencement of the county's fiscal year. If the advance is only a partial payment of the county's estimated annual contribution, transfers from the appropriation to the retirement fund shall be made at the end of each month or at the end of each pay period until the total amount estimated for the year is contributed. This amount shall be adjusted at the end of the fiscal year to reflect the actual contribution required for that year.

CHAPTER 204

An act to amend Section 500 of, to add Sections 761.5 and 1500.6 to, to repeal Sections 552, 557, and 558 of, and to repeal and add Section 551 of, the Financial Code, relating to financial institutions.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 500 of the Financial Code is amended to read:

500. (a) In this article, ''branch office'' means any branch office other than an automated teller machine branch office as defined in Section 550 or a remote service facility as defined in subsection (d) of Section 345.12 of Title 12 of the Code of Federal Regulations, except that no place where a bank or trust company engages in fiduciary business shall, solely on that account, be deemed to be a branch office.

(b) When authorized by the commissioner as provided in this chapter, a bank or trust company, with the approval of its board, may establish and maintain one or more branch offices.

SEC. 2. Section 551 of the Financial Code is repealed.

SEC. 3. Section 551 is added to the Financial Code, to read:

551. Except as the commissioner may otherwise order, a bank is not required to file any notice with, or to obtain any approval or certificate of authority from, the commissioner or to comply with any other

regulatory requirement in order to establish, relocate, or discontinue an automated teller machine or remote service facility.

SEC. 4. Section 552 of the Financial Code is repealed.

SEC. 5. Section 557 of the Financial Code is repealed.

SEC. 6. Section 558 of the Financial Code is repealed.

SEC. 7. Section 761.5 is added to the Financial Code, to read:

761.5. (a) In this section:

(1) ''Depository institution'' has the meaning set forth in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

(2) ''Depository institution holding company'' has the meaning set forth in Section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(w)).

(b) Notwithstanding any provision of this code, to the contrary, and except as the commissioner may otherwise order, a California state bank may purchase for its own account shares of the stock of an insured bank or of a holding company which owns or controls an insured bank if the stock of the bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions or depository institution holding companies and if the bank or company and all subsidiaries thereof are engaged exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of these institutions and companies and in providing correspondent banking services at the request of other depository institutions or their holding companies.

SEC. 8. Section 1500.6 is added to the Financial Code, to read:

1500.6. No California state bank may engage in trust business at a place unless the place is its head office, an authorized branch office, or an authorized place of business.

CHAPTER 205

An act to add Section 25500.1 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 25500.1 is added to the Business and Professions Code, to read:

25500.1. Notwithstanding Section 25500, the listing of the names, addresses, telephone numbers and/or e-mail addresses, or web site addresses, of two or more unaffiliated on-sale retailers selling wine and/or brandy and operating and licensed as bona fide public eating places pursuant to Section 23038 selling the wine and/or brandy 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 on-sale retailer, provided:

(a) The listing does not also contain the retail price of the product, and

(b) The listing is the only reference to the on-sale retailers in the direct communication, and

(c) The listing does not refer only to one on-sale retailer or only to on-sale retail establishments controlled directly or indirectly by the same on-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 wine and/or brandy, 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 on-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 on-sale retailers in violation of this division.

CHAPTER 206

An act to amend Sections 2115 and 2200 of the Corporations Code, relating to foreign corporations.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 2115 of the Corporations Code is amended to read:

2115. (a) A foreign corporation (other than a foreign association or foreign nonprofit corporation but including a foreign parent corporation

even though it does not itself transact intrastate business) is subject to the requirements of subdivision (b) commencing on the date specified in subdivision (d) and continuing until the date specified in subdivision (e) if:

(1) the average of the property factor, the payroll factor, and the sales factor (as defined in Sections 25129, 25132, and 25134 of the Revenue and Taxation Code) with respect to it is more than 50 percent during its latest full income year and

(2) more than one-half of its outstanding voting securities are held of record by persons having addresses in this state appearing on the books of the corporation on the record date for the latest meeting of shareholders held during its latest full income year or, if no meeting was held during that year, on the last day of the latest full income year. The property factor, payroll factor, and sales factor shall be those used in computing the portion of its income allocable to this state in its franchise tax return or, with respect to corporations the allocation of whose income is governed by special formulas or that are not required to file separate or any tax returns, which would have been so used if they were governed by this three-factor formula. The determination of these factors with respect to any parent corporation shall be made on a consolidated basis, including in a unitary computation (after elimination of intercompany transactions) the property, payroll, and sales of the parent and all of its subsidiaries in which it owns directly or indirectly more than 50 percent of the outstanding shares entitled to vote for the election of directors, but deducting a percentage of the property, payroll, and sales of any subsidiary equal to the percentage minority ownership, if any, in the subsidiary. For the purpose of this subdivision, any securities held to the knowledge of the issuer in the names of broker-dealers, nominees for broker-dealers (including clearing corporations), or banks, associations, or other entities holding securities in a nominee name or otherwise on behalf of a beneficial owner (collectively ''Nominee Holders''), shall not be considered outstanding. However, if the foreign corporation requests all Nominee Holders to certify, with respect to all beneficial owners for whom securities are held, the number of shares held for those beneficial owners having addresses (as shown on the records of the Nominee Holder) in this state and outside of this state, then all shares so certified shall be considered outstanding and held of record by persons having addresses either in this state or outside of this state as so certified, provided that the certification so provided shall be retained with the record of shareholders and made available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record. A current list of beneficial owners of a foreign corporation's securities provided to the corporation by one or more Nominee Holders or their agent pursuant to the requirements of Rule 14b-1(b)(3) or

14b-2(b)(3) as adopted on January 6, 1992, promulgated under the Securities Exchange Act of 1934, shall constitute an acceptable certification with respect to beneficial owners for the purposes of this subdivision.

(b) Except as provided in subdivision (c), the following chapters and sections of this division shall apply to a foreign corporation as defined in subdivision (a) (to the exclusion of the law of the jurisdiction in which it is incorporated):

Chapter 1 (general provisions and definitions), to the extent applicable to the following provisions;

Section 301 (annual election of directors);

Section 303 (removal of directors without cause);

Section 304 (removal of directors by court proceedings);

Section 305, subdivision (c) (filling of director vacancies where less than a majority in office elected by shareholders);

Section 309 (directors' standard of care);

Section 316 (excluding paragraph (3) of subdivision (a) and paragraph (3) of subdivision (f)) (liability of directors for unlawful distributions);

Section 317 (indemnification of directors, officers, and others);

Sections 500 to 505, inclusive (limitations on corporate distributions in cash or property);

Section 506 (liability of shareholder who receives unlawful distribution);

Section 600, subdivisions (b) and (c) (requirement for annual shareholders' meeting and remedy if same not timely held);

Section 708, subdivisions (a), (b), and (c) (shareholder's right to cumulate votes at any election of directors);

Section 710 (supermajority vote requirement);

Section 1001, subdivision (d) (limitations on sale of assets);

Section 1101 (provisions following subdivision (e)) (limitations on mergers);

Chapter 12 (commencing with Section 1200) (reorganizations);

Chapter 13 (commencing with Section 1300) (dissenters' rights);

Sections 1500 and 1501 (records and reports);

Section 1508 (action by Attorney General);

Chapter 16 (commencing with Section 1600) (rights of inspection).

(c) This section does not apply to any corporation (1) with outstanding securities listed on the New York Stock Exchange or the American Stock Exchange, or (2) with outstanding securities designated as qualified for trading on the Nasdaq National Market (or any successor thereto) of the Nasdaq Stock Market operated by the Nasdaq Stock Market Inc., or (3) if all of its voting shares (other than directors' qualifying shares) are owned directly or indirectly by a corporation or corporations not subject to this section.

(d) For purposes of subdivision (a), the requirements of subdivision (b) shall become applicable to a foreign corporation only upon the first day of the first income year of the corporation (i) commencing on or after the 135th day of the income year immediately following the latest income year with respect to which the tests referred to in subdivision (a) have been met or (ii) commencing on or after the entry of a final order by a court of competent jurisdiction declaring that those tests have been met.

(e) For purposes of subdivision (a), the requirements of subdivision (b) shall cease to be applicable to a foreign corporation (i) at the end of the first income year of the corporation immediately following the latest income year with respect to which at least one of the tests referred to in subdivision (a) is not met or (ii) at the end of the income year of the corporation during which a final order has been entered by a court of competent jurisdiction declaring that one of those tests is not met, provided that a contrary order has not been entered before the end of the income year.

(f) Any foreign corporation that is subject to the requirements of subdivision (b) shall advise any shareholder of record, any officer, director, employee, or other agent (within the meaning of Section 317) and any creditor of the corporation in writing, within 30 days of receipt of written request for that information, whether or not it is subject to subdivision (b) at the time the request is received. Any party who obtains a final determination by a court of competent jurisdiction that the corporation failed to provide to the party information required to be provided by this subdivision or provided the party information of the kind required to be provided by this subdivision that was incorrect, then the court, in its discretion, shall have the power to include in its judgment recovery by the party from the corporation of all court costs and reasonable attorneys' fees incurred in that legal proceeding to the extent they relate to obtaining that final determination.

SEC. 2. Section 2200 of the Corporations Code is amended to read:

2200. Every corporation that neglects, fails or refuses: (a) to keep or cause to be kept or maintained the record of shareholders or books of account required by this division to be kept or maintained , (b) to prepare or cause to be prepared or submitted the financial statements required by this division to be prepared or submitted, or (c) to give any shareholder of record the advice required by subdivision (f) of Section 2115, is subject to penalty as provided in this section.

The penalty shall be twenty-five dollars ($25) for each day that such failure or refusal continues, up to a maximum of one thousand five hundred dollars ($1,500), beginning 30 days after receipt of the written request that the duty be performed from one entitled to make the request, except that, in the case of a failure to give advice required by subdivision

(f) of Section 2115, the 30-day period shall run from the date of receipt of the request made pursuant to subdivision (f) and no additional request is required by this section.

The penalty shall be paid to the shareholder or shareholders jointly making the request for performance of the duty, and damaged by the neglect, failure or refusal, if suit therefor is commenced within 90 days after the written request is made, including any request made pursuant to subdivision (f) of Section 2115 ; but the maximum daily penalty because of failure to comply with any number of separate requests made on any one day or for the same act shall be two hundred fifty dollars ($250).

CHAPTER 207

An act to amend and repeal Section 1347 of the Penal Code, relating to child witnesses.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 1347 of the Penal Code, as amended by Section 1.5 of Chapter 670 of the Statutes of 1998, is amended to read:

1347. (a) It is the intent of the Legislature in enacting this section to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant or defendants against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

(b) Notwithstanding any other law, the court in any criminal proceeding, upon written notice by the prosecutor made at least three days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor 13 years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and

attorneys, and communicated to the courtroom by means of closed-circuit television, if the court makes all of the following findings:

(1) The minor's testimony will involve a recitation of the facts of either of the following:

(A) An alleged sexual offense committed on or with the minor.

(B) The minor is a victim of a violent felony, as defined in subdivision (c) of Section 667.5.

(2) The impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(A) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving testimony at any trial or court proceeding, or to prevent the minor from reporting the alleged sexual offense or from assisting in criminal prosecution.

(B) Use of a firearm or any other deadly weapon during the commission of the crime.

(C) Infliction of great bodily injury upon the victim during the commission of the crime.

(D) Conduct on the part of the defendant or defense counsel during the hearing or trial that causes the minor to be unable to continue his or her testimony.

In making the determination required by this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary to obtain the minor's testimony.

(3) The equipment available for use of closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

(c) If the court orders the use of closed-circuit television, two-way closed-circuit television shall be used, except that if the impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, of paragraph (2) of subdivision (b), is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness even if two-way closed-circuit television is used, one-way closed-circuit television may be used. The prosecution shall give the defendant or defendants at least 30 days written notice of the prosecution's intent to seek the use of one-way closed-circuit

television, unless good cause is shown to the court why this 30-day notice requirement should not apply.

(d) (1) The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

(2) Notwithstanding Section 804 of the Evidence Code or any other law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(3) In determining whether the impact on an individual child of one or more of the four factors enumerated in paragraph (2) of subdivision (b) is so substantial that the minor is unavailable as a witness unless two-way or one-way closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior to the conclusion of the session in chambers.

(e) When the court orders the testimony of a minor to be taken in another place outside of the courtroom, the court shall do all of the following:

(1) Make a brief statement on the record, outside of the presence of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable, and equitable manner.

(2) Instruct the members of the jury that they are to draw no inferences from the use of closed-circuit television as a means of facilitating the testimony of the minor.

(3) Instruct respective counsel, outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of closed-circuit television procedures.

(4) Instruct the support witness, outside of the presence of the jury, that he or she is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

(5) Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be

transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant or defendants, and his or her attorney during ordinary business hours. The videotape shall be destroyed after five years have elapsed from the date of entry of judgment. If an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been ordered. Any videotape that is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated pursuant to Section 868.5, a nonuniformed bailiff, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A videotape shall record the image of the minor and his or her testimony, and a separate videotape shall record the image of the support person.

(g) When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or defendants or any of the facts of the case with the minor during this meeting.

(h) When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section prohibits the court from ordering the minor to be brought into the courtroom for a limited purpose, including the identification of the defendant or defendants as the court deems necessary.

(i) The examination shall be under oath, and the defendant or defendants shall be able to see and hear the minor witness and if two-way closed-circuit television is used, the defendant's image shall be transmitted live to the witness.

(j) Nothing in this section affects the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

(k) The cost of examination by contemporaneous closed-circuit television ordered pursuant to this section shall be borne by the court out of its existing budget.

(*l*) The Judicial Council shall prepare and submit to the Legislature, on or before December 31, 2000, a report on the frequency of use and effectiveness of closed-circuit testimony.

(m) 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 1347 of the Penal Code, as added by Section 1.6 of Chapter 670 of the Statutes of 1998, is amended to read:

1347. (a) It is the intent of the Legislature in enacting this section to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant or defendants against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

(b) Notwithstanding any other law, the court in any criminal proceeding, upon written notice by the prosecutor made at least three days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor 13 years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and attorneys, and communicated to the courtroom by means of closed-circuit television, if the court makes all of the following findings:

(1) The minor's testimony will involve a recitation of the facts of an alleged sexual offense committed on or with the minor.

(2) The impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(A) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving testimony at any trial or court proceeding, or to prevent the minor from reporting the alleged sexual offense or from assisting in criminal prosecution.

(B) Use of a firearm or any other deadly weapon during the commission of the crime.

(C) Infliction of great bodily injury upon the victim during the commission of the crime.

(D) Conduct on the part of the defendant or defense counsel during the hearing or trial that causes the minor to be unable to continue his or her testimony.

In making the determination required by this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary to obtain the minor's testimony.

(3) The equipment available for use of closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

(c) If the court orders the use of closed-circuit television, two-way closed-circuit television shall be used, except that if the impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, of paragraph (2) of subdivision (b), is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness even if two-way closed-circuit television is used, one-way closed-circuit television may be used. The prosecution shall give the defendant or defendants at least 30 days' written notice of the prosecution's intent to seek the use of one-way closed-circuit television, unless good cause is shown to the court why this 30-day notice requirement should not apply.

(d) (1) The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

(2) Notwithstanding Section 804 of the Evidence Code or any other law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(3) In determining whether the impact on an individual child of one or more of the four factors enumerated in paragraph (2) of subdivision (b) is so substantial that the minor is unavailable as a witness unless two-way or one-way closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior to the conclusion of the session in chambers.

(e) When the court orders the testimony of a minor to be taken in another place outside of the courtroom, the court shall do all of the following:

(1) Make a brief statement on the record, outside of the presence of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable, and equitable manner.

(2) Instruct the members of the jury that they are to draw no inferences from the use of closed-circuit television as a means of facilitating the testimony of the minor.

(3) Instruct respective counsel, outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of closed-circuit television procedures.

(4) Instruct the support witness, outside of the presence of the jury, that he or she is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

(5) Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant or defendants, and his or her attorney during ordinary business hours. The videotape shall be destroyed after five years have elapsed from the date of entry of judgment. If an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been ordered. Any videotape that is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness. This subdivision does not affect subdivision (b) of Section 868.7.

(f) When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated pursuant to Section 868.5, a nonuniformed bailiff, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A videotape shall record the image of the minor and his or her testimony, and a separate videotape shall record the image of the support person.

(g) When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the

child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or defendants or any of the facts of the case with the minor during this meeting.

(h) When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section prohibits the court from ordering the minor to be brought into the courtroom for a limited purpose, including the identification of the defendant or defendants as the court deems necessary.

(i) The examination shall be under oath, and the defendant or defendants shall be able to see and hear the minor witness, and if two-way closed-circuit television is used, the defendant's image shall be transmitted live to the witness.

(j) Nothing in this section affects the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

(k) The cost of examination by contemporaneous closed-circuit television ordered pursuant to this section shall be borne by the court out of its existing budget.

(*l*) This section shall become operative on January 1, 2003.

CHAPTER 208

An act to amend Section 4519 of the Business and Professions Code, relating to psychiatric technicians.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 4519 of the Business and Professions Code is amended to read:

4519. (a) In the case of a person who is employed by the state as a psychiatric technician, no state funds shall be expended in releasing the person from duty to attend continuing education courses, other than funds for in-service training and related state-provided programs.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, 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.

CHAPTER 209

An act to add Section 3306.5 to the Government Code, relating to personnel records.

[Approved by Governor July 24, 2000. Filed with Secretary of State July 24, 2000.]

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

SECTION 1. Section 3306.5 is added to the Government Code, to read:

3306.5. (a) Every employer shall, at reasonable times and at reasonable intervals, upon the request of a public safety officer, during usual business hours, with no loss of compensation to the officer, permit that officer to inspect personnel files that are used or have been used to determine that officer's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer shall keep each public safety officer's personnel file or a true and correct copy thereof , and shall make the file or copy thereof available within a reasonable period of time after a request therefor by the officer.

(c) If, after examination of the officer's personnel file, the officer believes that any portion of the material is mistakenly or unlawfully placed in the file, the officer may request, in writing, that the mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subdivision shall include a statement by the officer describing the corrections or deletions from the personnel file requested and the reasons supporting those corrections or deletions. A statement submitted pursuant to this subdivision shall become part of the personnel file of the officer.

(d) Within 30 calendar days of receipt of a request made pursuant to subdivision (c), the employer shall either grant the officer's request or notify the officer of the decision to refuse to grant the request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing the reasons for refusing the request, and that written statement shall become part of the personnel file of the officer.

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 210

An act to add Section 11580.17 to the Insurance Code, relating to insurance.

[Approved by Governor August 8, 2000. Filed with Secretary of State August 9, 2000.]

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

SECTION 1. Section 11580.17 is added to the Insurance Code, to read:

11580.17. The department shall not prohibit an insurer from electing to inspect physically a motor vehicle for purposes of issuing a policy for collision or comprehensive coverage. The inspection of the motor vehicle shall be at no cost to the insured. The information ascertained from that inspection may only be used to determine the extent of insurability for collision or comprehensive coverage for the motor vehicle. If an insurer elects to conduct an inspection prior to offering comprehensive and collision insurance pursuant to this section, the insurer shall inspect every motor vehicle for which coverage is requested if the vehicle was not previously insured under a policy of comprehensive and collision coverage. An insurer may exempt from this requirement new motor vehicles if a copy of the sales contract is delivered to the insurer within five business days of the purchase of the new motor vehicle. The inspection shall be done by the insurer or its agent, and shall be performed not more than 20 miles from the address where the vehicle is insured, and during normal business hours.

CHAPTER 211

An act to add Sections 702 and 1726 to the Insurance Code, relating to insurance.

[Approved by Governor August 8, 2000. Filed with Secretary of State August 9, 2000.]

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

SECTION 1. Section 702 is added to the Insurance Code, to read:

702. (a) An insurer that maintains a certificate of authority to transact insurance in this state, advertises insurance on the Internet, and transacts insurance in this state, shall identify all of the following information on the Internet, regardless of whether the insurer maintains its Internet presence or if the presence is maintained on its behalf:

(1) Its name as it appears on its California certificate of authority, and if different, the name approved by the commissioner for doing business in this state.

(2) The state of its domicile and its principal place of business.

(3) The number on its California certificate of authority. In lieu of this number, an insurer may identify all states in which it maintains certificates of authority to transact insurance, provided that the insurer discloses its identification number as assigned by the National Association of Insurance Commissioners.

(b) An Internet presence maintained by or on behalf of an insurer not admitted to transact insurance in this state constitutes an advertisement, and the insurer shall comply with the requirements of Section 703.1 if it transacts insurance as defined in subdivision (c).

(c) A person who advertises on the Internet shall be deemed to be transacting insurance in this state if the person does any of the following:

(1) Provides an insurance premium quote specifically to a California resident.

(2) Accepts an application for coverage from a California resident.

(3) Otherwise communicates with a California resident regarding one or more terms of an agreement to provide insurance or an insurance policy.

This subdivision shall not apply to any lawful placement with a nonadmitted insurer, including when a person conveys a quote, accepts an application, and conducts all communications with a California resident solely through a surplus line broker or special lines' surplus line broker pursuant to California surplus line laws.

SEC. 2. Section 1726 is added to the Insurance Code, to read:

1726. (a) A person who is licensed in this state as an insurance agent or broker, advertises insurance on the Internet, and transacts insurance in this state, shall identify all of the following information on the Internet, regardless of whether the insurance agent or broker maintains his or her Internet presence or if the presence is maintained on his or her behalf:

(1) His or her name as it appears on his or her insurance license, and any fictitious name approved by the commissioner.

(2) The state of his or her domicile and principal place of business.

(3) His or her license number.

(b) A person shall be deemed to be transacting insurance in this state when the person advertises on the Internet, regardless of whether the insurance agent or broker maintains his or her Internet presence or if it is maintained on his or her behalf, and does any of the following:

(1) Provides an insurance premium quote to a California resident.

(2) Accepts an application for coverage from a California resident.

(3) Communicates with a California resident regarding one or more terms of an agreement to provide insurance or an insurance policy.

CHAPTER 212

An act to add Section 35655.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 9, 2000. Filed with Secretary of State August 10, 2000.]

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

SECTION 1. Section 35655.5 is added to the Vehicle Code, to read:

35655.5. (a) Notwithstanding this article or any other provision of law, no vehicle, as described in Sections 410 and 655, with a gross weight of 9,000 pounds or more, shall be operated on the segment of Interstate Route 580 (I-580) that is located between Grand Avenue in the City of Oakland and the city limits of the City of San Leandro. This subdivision does not apply to passenger buses or paratransit vehicles.

(b) The Department of Transportation shall erect suitable signs at each end of the portion of highway described in subdivision (a) and at any other points that the department deems necessary to give adequate notice of the weight limit imposed under this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 213

An act to amend Sections 37220.6 and 37220.5 of, and to add Section 51008 to, the Education Code, and to amend Sections 19853 and 19853.1 of the Government Code, relating to Cesar Chavez Day, and making an appropriation therefor.

[Approved by Governor August 18, 2000. Filed with Secretary of State August 21, 2000.]

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

SECTION 1. Section 37220.5 of the Education Code is amended to read:

37220.5. (a) In addition to the holidays prescribed in Section 37220, public schools may be closed on March 31, known as ''Cesar Chavez Day,'' or the appropriate Monday or Friday following or preceding that date, if the governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to close schools for that purpose.

(b) On March 31 or on the day determined by the governing board, public schools and educational institutions throughout the state may include exercises, funded through existing resources, commemorating and directing attention to the history of the farm labor movement in the United States and particularly the role therein of Cesar Chavez. The State Board of Education shall adopt a model curriculum guide to be available for use by public schools for exercises related to Cesar Chavez Day.

SEC. 2. Section 37220.6 is added to the Education Code, to read:

37220.6. (a) There is hereby created the Cesar Chavez Day of Service and Learning program to promote service to the communities of California in honor of the life and work of Cesar Chavez. The program shall be administered by the California Commission on Improving Life Through Service in collaboration with the California Conservation Corps.

(b) The California Commission on Improving Life Through Service may make grants to local and state operated Americorps or Conservation Corps programs that submit proposals to engage pupils through their schools and school districts in community service that qualifies as instructional time on Cesar Chavez Day, pursuant to Section 37220.5, that honor the life and work of Cesar Chavez. The programs shall be created and organized in consultation with community groups. The Americorps or Conservation Corps programs may implement or administer the programs in collaboration with community groups and

nonprofit organizations. The proposals shall demonstrate all of the following:

(1) The ways and extent to which the program will be a collaborative effort between schools and the Americorps program or Conservation Corps program.

(2) The ways that the service will be connected to instruction on the life and work of Cesar Chavez provided on Cesar Chavez Day.

(3) The way in which the service provided will make a meaningful contribution to the community.

(c) Grants made pursuant to subdivision (b) shall be in the amount of one dollar ($1) for each participating pupil, or two hundred and fifty dollars ($250) for each school, whichever is greater. The California Commission on Improving Life Through Service may, at its discretion, adjust the grant amount to account for school district size, the size of the project, and the demand on existing funding. Under no circumstances may the amount granted exceed the amount of funding appropriated to carry out this section.

(d) In order for the community service performed under this program to be counted as instructional time, the service shall be performed under the supervision of a teacher.

(e) The Superintendent of Public Instruction shall develop or revise, as needed, a model curriculum on the life and work of Cesar Chavez and submit the model curriculum to the State Board of Education for adoption pursuant to subdivision (b) of Section 37220.5. Upon adoption, the Superintendent of Public Instruction shall distribute the model curriculum to each school.

(f) It is the intent of the Legislature that nothing in this section, or in the act that adds this section, shall be construed to impose a mandate on school districts.

(g) For the purposes of this section, ''school district'' includes school districts, charter schools, and county offices of education.

SEC. 3. Section 51008 is added to the Education Code, to read:

51008. The State Board of Education shall ensure that the state curriculum and framework, where appropriate, include instruction on Cesar Chavez and the history of the farm labor movement in the United States, and that the state criteria for selecting textbooks include information to guide the selection of textbooks that contain sections that highlight the life and contributions of Cesar Chavez and the history of the farm labor movement in the United States.

SEC. 4. Section 19853 of the Government Code is amended to read:

19853. (a) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: January 1, the third Monday in January, February 12, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, the second

Monday in October, November 11, the day after Thanksgiving, December 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays included in this subdivision, and who does work on any of these holidays, shall be entitled to be paid compensation or given compensating time off for that work in accordance with their classification's assigned workweek group. For the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, or compensating time off, shall be considered as time worked by the employee.

(b) If the provisions of subdivision (a) 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 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.

(c) Any employee, 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, shall be entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, February 12, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, and any personal holiday chosen pursuant to Section 19854. The department head or designee may require an employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs.

(2) When November 11 falls on a Saturday, employees shall be entitled to the preceding Friday as a holiday with pay.

(3) When a holiday, other than a personal holiday or November 11, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, only accrue an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Less than full-time employees shall receive holidays in accordance with Department of Personnel Administration rules.

(d) (1) Any employee, as defined in subdivision (c) of Section 3513, may elect to receive eight hours of holiday credit for the fourth Friday in September, known as ''Native American Day,'' in lieu of receiving eight hours of personal holiday credit in accordance with Section 19854.

(2) It is not the intent of the Legislature, by the amendments to this subdivision that add this paragraph, to increase the personal holiday credit that an employee receives pursuant to Section 19854.

(e) This section shall become effective with regard to the March 31 holiday only when the Department of Personnel Administration notifies the Legislature that the language contained in this section has been agreed to by all exclusive representatives, and the Department of Personnel Administration authorizes this holiday to be applied to employees designated as excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), and the necessary statutes are amended to reflect this change.

SEC. 5. Section 19853.1 of the Government Code is amended to read:

19853.1. (a) Notwithstanding Section 19853, this section shall apply to state employees in State Bargaining Unit 5.

(b) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11, the day after Thanksgiving, December 25, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11 falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays included in this section and who does work on any of these holidays shall be entitled to be paid compensation or given compensating time off for that work in accordance with his or her classification's assigned workweek group.

(c) If the provisions of subdivision (b) 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 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.

(d) Any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, is entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, the day after Thanksgiving, and December 25.

(2) When November 11 falls on a Saturday, employees shall be entitled to the preceding Friday as a holiday with pay.

(3) When a holiday, other than a personal holiday, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, accrue only an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Persons employed on less than a full-time basis shall receive holidays in accordance with the Department of Personnel Administration rules.

(e) Any employee, as defined in subdivision (c) of Section 3513, may elect to use eight hours of vacation, annual leave, or compensating time off consistent with departmental operational needs and collective bargaining agreements for the fourth Friday in September, known as ''Native American Day.''

(f) This section shall become effective with regard to the March 31 holiday only when the Department of Personnel Administration notifies the Legislature that the language contained in this section has been agreed to by all exclusive representatives, and the Department of Personnel Administration authorizes this holiday to be applied to employees designated as excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), and the necessary statutes are amended to reflect this change.

SEC. 6. The following sums are hereby appropriated from the General Fund to be allocated according to the following schedule:

(a) Five million dollars ($5,000,000) to the California Commission on Improving Life Through Service, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs, up to 5 percent of which may be used for state level administration costs.

(b) One million dollars ($1,000,000) to the Superintendent of Public Instruction for the purpose of developing or revising, as needed, a model curriculum on the life and work of Cesar Chavez and distributing that curriculum to each school.

CHAPTER 214

An act to amend Section 368 of the Penal Code, relating to elder abuse.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Section 368 of the Penal Code is amended to read:

368. (a) The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf.

(b) (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars ($6,000), or by both that fine and imprisonment, or in the state prison for two, three, or four years.

(2) If in the commission of an offense described in paragraph (1), the victim suffers great bodily injury, as defined in subdivision (e) of Section 12022.7, the defendant shall receive an additional term in the state prison as follows:

(A) Three years if the victim is under 70 years of age.

(B) Five years if the victim is 70 years of age or older.

(3) If in the commission of an offense described in paragraph (1), the defendant proximately causes the death of the victim, the defendant shall receive an additional term in the state prison as follows:

(A) Five years if the victim is under 70 years of age.

(B) Seven years if the victim is 70 years of age or older.

(c) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

(d) Any person who is not a caretaker who violates any provision of law proscribing theft or embezzlement, with respect to the property of an elder or dependent adult, and who knows or reasonably should know that the victim is an elder or dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years, when the money, labor, or real or personal property taken is of a value exceeding four hundred dollars ($400); and by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the money, labor, or real or personal property taken is of a value not exceeding four hundred dollars ($400).

(e) Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft or embezzlement, with respect to the property of that elder or dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years when the money, labor, or real or personal property taken is of a value exceeding four hundred dollars ($400), and by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the money, labor, or real or personal property taken is of a value not exceeding four hundred dollars ($400).

(f) Any person who commits the false imprisonment of an elder or dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment in the state prison for two, three, or four years.

(g) As used in this section, ‘‘elder’’ means any person who is 65 years of age or older.

(h) As used in this section, ''dependent adult'' means any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. ''Dependent adult'' includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(i) As used in this section, ''caretaker'' means any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult.

(j) Nothing in this section shall preclude prosecution under both this section and Section 187 or 12022.7 or any other provision of law. However, a person shall not receive an additional term of imprisonment under both paragraphs (2) and (3) of subdivision (b) for any single offense, nor shall a person receive an additional term of imprisonment under both Section 12022.7 and paragraph (2) or (3) of subdivision (b) for any single offense.

CHAPTER 215

An act to add Sections 4461.5, 4463.3, and 22511.85 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Section 4461.5 is added to the Vehicle Code, to read:

4461.5. In addition to, or instead of, any fine imposed for conviction of a violation of subdivision (c) or (d) of Section 4461, the court may impose a civil penalty of not more than one thousand five hundred dollars ($1,500) for each conviction.

SEC. 2. Section 4463.3 is added to the Vehicle Code, to read:

4463.3. In addition to, or instead of, any fine imposed for conviction of a violation of subdivision (b) or (c) of Section 4463, the court may impose a civil penalty of not more than two thousand five hundred dollars ($2,500) for each conviction.

SEC. 3. Section 22511.85 is added to the Vehicle Code, to read:

22511.85. Any vehicle equipped with a side-loading lift or ramp that is used for the loading and unloading of disabled persons may park in not

more than two adjacent stalls or spaces in any public off-street parking facility when loading or unloading disabled persons, if there is no single parking space immediately available within that facility that is suitable for that purpose including, but not limited to, when there is not sufficient space to operate a vehicle lift or ramp or there is not sufficient room for a disabled person to exit the vehicle or maneuver once outside the vehicle.

CHAPTER 216

An act to amend Sections 7520.5, 7529, and 7541.1 of the Business and Professions Code, relating to private investigators.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Section 7520.5 of the Business and Professions Code is amended to read:

7520.5. The director may authorize a licensed private investigator from another state to continue in this state for 60 days an investigation that originated in the state which is the location of the private investigator's principal place of business if that state provides reciprocal authority for California's licensees. The private investigator shall notify the department in writing upon entering the state for the purpose of continuing an investigation and shall be subject to all provisions of this chapter. For purposes of this section, ''originated'' means investigatory activities conducted subsequent to an agreement to conduct an investigation.

SEC. 2. Section 7529 of the Business and Professions Code is amended to read:

7529. Upon the issuance of a license, a pocket card of the size, design, and content as may be determined by the director shall be issued by the bureau to each licensee, if an individual, or if the licensee is a person other than an individual, to its manager and to each of its officers and partners. The pocket card is evidence that the licensee is licensed pursuant to this chapter. The card shall contain the signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual. The card shall clearly state that the person is licensed as a private investigator or is the manager or officer of the licensee. The pocket card is to be composed of a durable material and may incorporate technologically

advanced security features. The bureau may charge a fee sufficient to reimburse the department's costs for furnishing the pocket card. The fee charged may not exceed the actual direct costs for system development, maintenance, and processing necessary to provide this service, and may not exceed sixteen dollars ($16). When a person to whom a card is issued terminates his or her position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the bureau for cancellation. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card as provided by regulation.

SEC. 3. Section 7541.1 of the Business and Professions Code is amended to read:

7541.1. (a) Notwithstanding any other provision of law, experience for purposes of taking the examination for licensure as a private investigator shall be limited to those activities actually performed in connection with investigations, as defined in Section 7521, and only if those activities are performed by persons who are employed in the following capacities:

(1) Sworn law enforcement officers possessing powers of arrest and employed by agencies in the federal, state, or local government.

(2) Military police of the armed forces of the United States or the national guard.

(3) An insurance adjuster or their employees subject to Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code.

(4) Persons employed by a private investigator who are duly licensed in accordance with this chapter.

(5) Persons employed by repossessors duly licensed in accordance with Chapter 11 (commencing with Section 7500), only to the extent that those persons are routinely and regularly engaged in the location of debtors or the location of personal property utilizing methods commonly known as ''skip tracing.'' For purposes of this section, only that experience acquired in that skip tracing shall be credited toward qualification to take the examination.

(6) Persons duly trained and certified as an arson investigator and employed by a public agency engaged in fire suppression.

(7) Persons trained as investigators and employed by a public defender to conduct investigations.

(b) For purposes of Section 7541, persons possessing an associate of arts degree in police science, criminal law or justice from an accredited college shall be credited with 1,000 hours of experience in investigative activities.

(c) The following activities shall not be deemed to constitute acts of investigation for purposes of experience toward licensure:

(1) The serving of legal process or other documents.

(2) Activities relating to the search for heirs or similar searches which involve only a search of public records or other reference sources in the public domain.

(3) The transportation or custodial attendance of persons in the physical custody of a law enforcement agency.

(4) The provision of bailiff or other security services to a court of law.

(5) The collection or attempted collection of debts by telephone or written solicitation after the debtor has been located.

(6) The repossession or attempted repossession of personal property after that property has been located and identified.

(d) Where the activities of employment of an applicant include those which qualify as bona fide experience as stated in this section as well as those which do not qualify, the director may, by delegation to the bureau, determine and apportion that percentage of experience for which any applicant is entitled to credit.

CHAPTER 217

An act to amend Section 33503 of the Public Resources Code, relating to the Coachella Valley Mountains Conservancy.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Section 33503 of the Public Resources Code is amended to read:

33503. (a) The governing board of the conservancy consists of the following 21 voting members:

(1) The mayor or a member of the city council of each of the Cities of Cathedral City, Desert Hot Springs, Indian Wells, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage, appointed by a majority of the membership of the respective city council of each city.

(2) The Chairperson of the Tribal Council of the Agua Caliente Band of Cahuilla Indians.

(3) One member of the Board of Supervisors of the County of Riverside, appointed by a majority of the membership of the board of supervisors.

(4) Three members chosen from the general public who reside within the conservancy's territory, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on

Rules, and one of whom shall be appointed by the Speaker of the Assembly.

(5) The Secretary of the Resources Agency.

(6) The Director of Fish and Game.

(7) The Executive Director of the Wildlife Conservation Board.

(8) The Director of Parks and Recreation.

(9) The Director of Finance.

(10) The Vice President, Division of Agriculture and Natural Resources, of the University of California.

(11) The State Director for California of the United States Bureau of Land Management.

(12) The Regional Forester for the Pacific Southwest Region of the United States Forest Service.

(13) The Regional Director for the Pacific West Region of the National Park Service.

(b) Any state or federal official who is a member of the governing board and whose principal office is not within the territory of the conservancy may designate a member of his or her executive staff to vote on his or her behalf and otherwise discharge the duties of the member when the member is not in attendance. Notice of that designation shall be promptly communicated in writing to the chairperson of the conservancy.

(c) Each city council, the Tribal Council of the Agua Caliente Band of Cahuilla Indians, and the Board of Supervisors of the County of Riverside may appoint an alternate member from its respective entity to attend the governing board meetings and vote on behalf of the appointed member and otherwise discharge the duties of the member when that member is not in attendance. Notice of the designation shall be promptly communicated in writing to the chairperson of the conservancy.

CHAPTER 218

An act to add Article 1.6 (commencing with Section 17525) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to unfair business practices.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Article 1.6 (commencing with Section 17525) is added to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, to read:

Article 1.6. Cyber Piracy

17525. (a) It is unlawful for a person, with a bad faith intent to register, traffic in, or use a domain name, that is identical or confusingly similar to the personal name of another living person or deceased personality, without regard to the goods or services of the parties.

(b) This section shall not apply if the name registered as a domain name is connected to a work of authorship, including, but not limited to, fictional or nonfictional entertainment, and dramatic, literary, audiovisual, or musical works.

(c) A domain name registrar, a domain name registry, or any other domain name registration authority that takes any action described in subdivision (a) that affects a domain name shall not be liable to any person for that action, regardless of whether the domain name is finally determined to infringe or dilute a trademark or service mark.

17526. In determining whether there is a bad faith intent pursuant to Section 17525, a court may consider factors, including, but not limited to, the following:

(a) The trademark or other intellectual property rights of the person alleged to be in violation of this article, if any, in the domain name.

(b) The extent to which the domain name consists of the legal name of the person alleged to be in violation of this article or a name that is otherwise commonly used to identify that person.

(c) The prior use, if any, by the person alleged to be in violation of this article of the domain name in connection with the bona fide offering of any goods or services.

(d) The legitimate noncommercial or fair use of the person's or deceased personality's name in an Internet web site accessible under the domain name by the person alleged to be in violation of this article.

(e) The intent of a person alleged to be in violation of this article to divert consumers from the person's or deceased personality's name online location to a site accessible under the domain name that could harm the goodwill represented by the person's or deceased personality's name either for commercial gain or with the intent to tarnish or disparage the person's or deceased personality's name by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site.

(f) The offer by a person alleged to be in violation of this article to transfer, sell, or otherwise assign the domain name to the rightful owner or any third party for substantial consideration without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services.

(g) The intentional provision by the person alleged to be in violation of this article of material and misleading false contact information when applying for the registration of the domain name.

(h) The registration or acquisition by the person alleged to be in violation of this article of multiple domain names that are identical or confusingly similar to names of other living persons or deceased personalities.

(i) Whether the person alleged to be in violation of this article sought or obtained consent from the rightful owner to register, traffic in, or use the domain name.

17527. As used in this article:

(a) ''Deceased personality'' shall have the same meaning as defined in Section 3344.1 of the Civil Code.

(b) ''Domain name'' means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the internet.

(c) ''Internet'' shall have the meaning specified in Section 17538.

(d) ''Traffic in'' refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, or any other transfer for consideration or receipt in exchange for consideration.

17528. Jurisdiction for actions brought pursuant to this article shall be in accordance with Section 410.10 of the Code of Civil Procedure.

CHAPTER 219

An act to amend Section 65 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Section 65 of the Military and Veterans Code is amended to read:

65. The California Veterans Board shall consist of seven members who shall be appointed by the Governor subject to the confirmation of the Senate.

CHAPTER 220

An act to amend Section 53753 of the Government Code, relating to local government assessments.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

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

SECTION 1. Section 53753 of the Government Code is amended to read:

53753. (a) The notice, protest, and hearing requirements imposed by this section supersede any statutory provisions applicable to the levy of a new or increased assessment that is in existence on the effective date of this section, whether or not that provision is in conflict with this article. Any agency that complies with the notice, protest, and hearing requirements of this section shall not be required to comply with any other statutory notice, protest, and hearing requirements that would otherwise be applicable to the levy of a new or increased assessment, with the exception of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code. If the requirements of that division apply to the levy of a new or increased assessment, the levying agency shall comply with the notice, protest, and hearing requirements imposed by this section as well as with the requirements of that division.

(b) Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c), including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the

assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. An agency shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed assessment.

(c) Each notice given pursuant to subdivision (b) shall contain an assessment ballot that includes the agency's address for receipt of the form and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall be in a form that conceals its contents once it is sealed by the person submitting the assessment ballot. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to subdivision (e). Assessment ballots shall remain sealed until the tabulation of ballots pursuant to subdivision (e) commences, provided that an assessment ballot may be submitted, or changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the hearing required pursuant to subdivision (d). An agency may provide an envelope for the return of the assessment ballot, provided that if the return envelope is opened by the agency prior to the tabulation of ballots pursuant to subdivision (e), the enclosed assessment ballot shall remain sealed as provided in this section.

(d) At the time, date, and place stated in the notice mailed pursuant to subdivision (b), the agency shall conduct a public hearing upon the proposed assessment. At the public hearing, the agency shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any interested person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.

(e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), an impartial person, including, but not limited to, the clerk of the agency, designated by the agency who does not have a vested interest in the outcome of the proposed assessment shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. The impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, punchcard or optically readable (bar-coded) assessment ballots. During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in Section 6252, and equally available for inspection by the proponents and the opponents of the proposed assessment.

In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

(2) A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(3) If there is a majority protest against the imposition of a new assessment, or the extension of an existing assessment, or an increase in an existing assessment, the agency shall not impose, extend, or increase the assessment.

(4) The majority protest proceedings described in this subdivision shall not constitute an election or voting for purposes of Article II of the California Constitution or of the California Elections Code.

CHAPTER 221

An act to amend Section 11704.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 11704.5 of the Vehicle Code is amended to read:

11704.5. (a) Except as provided in subdivision (e), every person who applies for a dealer's license pursuant to Section 11701 for the purpose of transacting sales of used vehicles on a retail or wholesale basis only shall be required to take and successfully complete a written examination prepared and administered by the department before a license may be issued. The examination shall include, but need not be limited to, all of the following laws and subjects:

(1) Division 12 (commencing with Section 24000), relating to equipment of vehicles.

(2) Advertising.

(3) Odometers.
(4) Vehicle licensing and registration.
(5) Branch locations.
(6) Offsite sales.
(7) Unlawful dealer activities.
(8) Handling, completion, and disposition of departmental forms.

(b) Prior to the first taking of an examination under subdivision (a), every applicant shall successfully complete a preliminary educational program of not less than four hours. The program shall address, but not be limited to, all of the following topics:

(1) Chapter 2B (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, relating to motor vehicle sales finance.
(2) Motor vehicle financing.
(3) Truth in lending.
(4) Sales and use taxes.
(5) Division 12 (commencing with Section 24000), relating to equipment of vehicles.
(6) Advertising.
(7) Odometers.
(8) Vehicle licensing and registration.
(9) Branch locations.
(10) Offsite sales.
(11) Unlawful dealer activities.
(12) Air pollution control requirements.
(13) Regulations of the Bureau of Automotive Repair.
(14) Handling, completion, and disposition of departmental forms.

(c) (1) Except as provided in paragraph (2), every dealer who is required to complete a written examination and an educational program pursuant to subdivisions (a) and (b) and who is thereafter issued a dealer's license shall every two years after issuance of that license, successfully complete an educational program of not less than four hours that offers instruction in the subjects listed under subdivision (a) and the topics listed under subdivision (b) in order to maintain or renew that license.

(2) A dealer is not required to complete the educational program set forth in paragraph (1) if the educational program is completed by a managerial employee employed by the dealer.

(d) Instruction described in subdivisions (b) and (c) may be provided by generally accredited educational institutions, private vocational schools, and educational programs and seminars offered by professional societies, organizations, trade associations, and other educational and technical programs that meet the requirements of this section or by the department.

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

(1) An applicant for a new vehicle dealer's license or any employee of that dealer.

(2) A person who holds a valid license as an automobile dismantler, an employee of that dismantler, or an applicant for an automobile dismantler's license.

(3) An applicant for a motorcycle only dealer's license or any employee of that dealer.

(4) An applicant for a trailer only dealer's license or any employee of that dealer.

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 222

An act to amend Sections 48321, 48325, and 49076 of the Education Code, relating to pupil truancy.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 48321 of the Education Code is amended to read:

48321. (a) (1) A county school attendance review board may be established in each county.

(2) The county school attendance review board, if established, shall include, but need not be limited to, all of the following:

(A) A parent.

(B) A representative of school districts.

(C) A representative of the county probation department.

(D) A representative of the county welfare department.

(E) A representative of the county superintendent of schools.

(F) A representative of law enforcement agencies.

(G) A representative of community-based youth service centers.

(H) A representative of school guidance personnel.

(I) A representative of child welfare and attendance personnel.

(J) A representative of school or county health care personnel.

(3) The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

(4) If a county school attendance review board exists, the county superintendent of schools shall, at the beginning of each school year, convene a meeting of the county school attendance review board for the purpose of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance and behavior problems.

(b) (1) Local school attendance review boards may include, but need not be limited to, all of the following:

(A) A parent.

(B) A representative of school districts.

(C) A representative of the county probation department.

(D) A representative of the county welfare department.

(E) A representative of the county superintendent of schools.

(F) A representative of law enforcement agencies.

(G) A representative of community-based youth service centers.

(H) A representative of school guidance personnel.

(I) A representative of child welfare and attendance personnel.

(J) A representative of school or county health care personnel.

(2) Other persons or group representatives shall be appointed by the county board of education.

(c) The county school attendance review board may elect pursuant to regulations adopted pursuant to Section 48324, one member as chairperson with responsibility for coordinating services of the county school attendance review board.

(d) The county school attendance review board may provide for the establishment of local school attendance review boards in any number as shall be necessary to carry out the intent of this article.

(e) In any county in which there is no county school attendance review board, a school district governing board may elect to establish a local school attendance review board, which shall operate in the same manner and have the same authority as a county school attendance review board.

(f) The county school attendance review board may provide consultant services to, and coordinate activities of, local school attendance review boards in meeting the special needs of pupils with school attendance or school behavior problems.

(g) When the county school attendance review board determines that the needs of pupils as defined in this article can best be served by a single

board, the county school attendance review board may then serve as the school attendance review board for all pupils in the county, or, upon the request of any school district in the county, the county school attendance review board may serve as the school attendance review board for pupils of that district.

(h) Nothing in this article is intended to prohibit any agreement on the part of counties to provide these services on a regional basis.

SEC. 2. Section 48325 of the Education Code is amended to read:

48325. (a) The Legislature finds and declares that statewide policy coordination and personnel training with respect to county attendance review boards will greatly facilitate the achievement of the goals expressed in Section 48320. It is therefore the intent of the Legislature in enacting this section to do the following:

(1) Encourage the cooperation, coordination, and development of strategies to support county school attendance review boards in carrying out their responsibilities to establish local school attendance review boards as necessary. These strategies may include, but need not be limited to, plans for the training of school attendance review board personnel.

(2) Divert pupils with serious attendance and behavioral problems from the juvenile justice system to agencies more directly related to the state public school system by developing a system for gathering and dispensing information on successful community-based and school-based programs.

(3) Reduce duplication of the services of state and county agencies in serving high-risk youth, including youth with school attendance or behavioral problems.

(4) Reduce the number of dropouts in the state public education system by promoting interagency cooperation among those agencies which have as their goals preventing students from dropping out, and increasing the holding power of the public schools.

(b) The Superintendent of Public Instruction shall coordinate and administer a state school attendance review board, as follows:

(1) On or before January 31 of each year, the superintendent shall extend invitations of participation to representatives of appropriate groups throughout the state, including, but not limited to, representatives of school districts, parent groups, county probation departments, county welfare departments, county superintendents of schools, law enforcement agencies, community-based youth service centers, school guidance personnel, child welfare and attendance personnel, the health care profession and state associations having an interest in youth with school attendance or behavioral problems. The superintendent shall also request the participation of representatives from interested state agencies or departments, including, but not limited

to, the Department of the California Youth Authority, the Department of Justice, the State Department of Social Services, and the Office of Criminal Justice Planning. To the extent feasible, members of the board shall include persons who are currently members of county or local school attendance review boards. For every year after the first year that the board is convened, the purpose of the invitations of participation shall be to inform appropriate groups, state agencies, and departments of the purposes of the board, to fill vacancies, and to supplement the membership of the board as necessary.

(2) The superintendent shall prescribe an appropriate deadline for acceptance of invitations of participation as a member of the state school attendance review board for that particular year, and the invitations accepted on or before the deadline shall constitute the board for that year, except that the board shall also include a representative of the State Department of Education designated by the director of that department. The representative of the State Department of Education shall be the chairperson of the board.

(3) The superintendent shall convene the board at least four times during the year. At its first meeting, the board shall elect any officers, other than its chairperson, as it deems necessary. Members of the board shall serve without compensation and without reimbursement of travel and living expenses.

(4) The State Department of Education shall provide assistance as requested by the Superintendent of Public Instruction in order to implement the provisions of this section.

(c) The state school attendance review board shall make recommendations annually to the Superintendent of Public Instruction, and to state agencies as deemed appropriate, regarding the needs and services provided to high-risk youth, including youth with school attendance or behavioral problems, in the state public schools, and shall propose uniform guidelines or other means to attain the goals stated in subdivision (a).

SEC. 3. Section 49076 of the Education Code is amended to read:

49076. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) School officials and employees of the district, members of a school attendance review board appointed pursuant to Section 48321, and any volunteer aide, 18 years of age or older, who has been investigated, selected, and trained by a school attendance review board for the purpose of providing followup services to students referred to the

school attendance review board, provided that the person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Education, and administrative head of an education agency, state education officials, or their respective designees, or the United States Office of Civil Rights, where the information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for the audit, evaluation, and enforcement of federal legal requirements.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests access.

(7) Any district attorney who is participating in or conducting a truancy mediation program pursuant to Section 48263.5, or Section 601.3 of the Welfare and Institutions Code, or participating in the presentation of evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code.

(8) A prosecuting agency for consideration against a parent or guardian for failure to comply with the Compulsory Education Law (Chapter 2 (commencing with Section 48200) of Part 27 of Division 4 of Title 2) or with Compulsory Continuation Education (Chapter 3 (commencing with Section 48400) of Part 27 of Division 4 of Title 2).

(9) Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

(10) Any judge or probation officer for the purpose of conducting a truancy mediation program for a pupil, or for purposes of presenting evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code. The judge or probation officer shall certify in writing

to the school district that the information will be used only for truancy purposes. A school district releasing pupil information to a judge or probation officer pursuant to this paragraph shall inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the release of the information.

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid. However, information permitting the personal identification of students or their parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) The county elections official, for the purpose of identifying students eligible to register to vote, and for conducting programs to offer students an opportunity to register to vote. The information, however, shall not be used for any other purpose or given or transferred to any other person or agency.

(4) Accrediting associations in order to carry out their accrediting functions.

(5) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of students or their parents by persons other than representatives of the organizations and the information will be destroyed when no longer needed for the purpose for which it is obtained.

(6) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. This information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from those records by any other person, persons, agency, or organization without the written consent of the pupil's parent. However, this paragraph shall not be construed as requiring prior parental consent when information obtained pursuant to this section is shared with other

persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate interest in the information.

(c) Notwithstanding any other provision of law, any school district, including any county office of education or superintendent of schools, may participate in an interagency data information system that permits access to a computerized data base system within and between governmental agencies or districts as to information or records which are nonprivileged, and where release is authorized as to the requesting agency under state or federal law or regulation, as long as each of the following requirements are met:

(1) Each agency and school district shall develop security procedures or devices by which unauthorized personnel cannot access data contained in the system.

(2) Each agency and school district shall develop procedures or devices to secure privileged or confidential data from unauthorized disclosure.

(3) Each school district shall comply with the access log requirements of Section 49064.

(4) The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.

(5) No agency or school district may make public or otherwise release information on an individual contained in the data base where the information is protected from disclosure or release as to the requesting agency by state or federal law or regulation.

CHAPTER 223

An act to add and repeal Chapter 12 (commencing with Section 2920) of Division 3 of the Fish and Game Code, relating to mosquito abatement, and making an appropriation therefor.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

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

(a) The Suisun Marsh and its myriad endemic plant and wildlife species are natural resources of state and national significance, as declared in the Suisun Marsh Protection Act of 1977 (Division 19 (commencing with Section 29000) of the Public Resources Code), and

should be protected from adverse environmental impacts and enhanced whenever possible.

(b) The proximity of the Suisun Marsh to neighboring communities has elicited public concern regarding the potential health and nuisance issues associated with the production of mosquitos in the early fall when most of the marsh is being flooded for migratory waterfowl.

(c) It is in the interest of the public to establish a demonstration program designed to develop and evaluate marsh management practices that will enhance the marsh for early migrating waterfowl and shorebirds while, at the same time, minimizing the need for the chemical control of mosquitos.

SEC. 2. Chapter 12 (commencing with Section 2920) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 12. SUISUN MARSH WETLANDS ENHANCEMENT AND MOSQUITO ABATEMENT DEMONSTRATION PROGRAM

2920. This act shall be known, and may be cited, as the Suisun Marsh Wetlands Enhancement and Mosquito Abatement Demonstration Program.

2921. For purposes of this chapter, the following terms shall have the following meaning:

(a) ''Conservation district'' means the Suisun Resource Conservation District.

(b) ''Early flooding program'' means the flooding of privately owned wetlands on which waterfowl ponds are located and that are initially flooded prior to October 1 of each year and that may remain flooded after that date.

(c) ''Late flooding program'' means the flooding of privately owned wetlands on which waterfowl ponds are located and that are initially flooded on or after October 1 of each year.

(d) ''Mosquito district'' means the Solano County Mosquito Abatement District.

(e) ''Program'' means the Suisun Marsh Wetland Enhancement and Mosquito Abatement Demonstration Program.

2922. The program is hereby established for the purpose of devising and evaluating methods by which wetland management techniques in the Suisun Marsh can be better integrated with mosquito abatement programs. The department shall award grant funds for the program to the conservation district until December 31, 2004. The program shall be implemented and administered in accordance with the following procedures:

(a) Not later than July 31, 2001, July 31, 2002, July 31, 2003, and July 31, 2004, the conservation district, the mosquito district, and the

department shall confer for the purpose of selecting those lands on which the early flooding program may be conducted with the voluntary consent of the landowners, shall immediately notify the owners of those selected properties, and shall give the owners of those selected properties the option to participate in the program. Priority shall be given to those properties that have demonstrated, or for which it can be reasonably assumed, are the least likely to produce mosquitos at levels requiring extensive abatement efforts.

(b) The mosquito district shall keep detailed records of each mosquito outbreak requiring the application of control measures, including the date of the outbreak and any posttreatment inspections, the species of mosquitos involved, approximate acreage sustaining the outbreak, the kind of control measure or measures employed, the type of chemical controls applied, if any, the application rate, and the total cost of the abatement procedure.

(c) The mosquito district shall immediately notify the conservation district of any mosquito outbreaks requiring control measures, and provide the conservation district with the written record of those outbreaks together with any recommendations the mosquito district may have regarding wetland habitat management practices that could be employed to avert or minimize future outbreaks on the subject property in a timely fashion.

(d) The conservation district shall conduct a weekly bird census of all waterfowl, shorebirds, and wading birds for the properties participating in the early flooding program, and shall maintain complete records of the census for each property. Prior to the initiation of the census effort, the conservation district and the department shall develop an appropriate census protocol. The census period shall extend from the time of initial flooding of any property until October 1 of each year.

(e) The conservation district shall submit to the department an annual report by March 1 of each year that summarizes the program-related events of the previous season's early flooding program. The report shall contain, at a minimum, for each property participating in the program all of the following:

(1) The name, identification number, date of initial flooding, and acreage flooded prior to October 1 of the year covered in the annual report.

(2) A summary of the results of the bird census, and any pertinent aerial waterfowl census data that may have been collected by the department.

(3) A detailed summary of all mosquito abatement events and the costs thereof.

The annual report prepared pursuant to this subdivision shall also include recommendations regarding how current marsh management

practices or mosquito abatement operations can be improved to better integrate the two interests with the intent of enhancing wetland habitat, thereby reducing the cost of vector control measures and limiting the need for the application of chemical control agents.

(f) The conservation district shall submit a final report to the department by March 1, 2005, which summarizes the results of the entire demonstration program and shall include a summary of those matters described in paragraphs (1) to (3), inclusive, of subdivision (e). In addition, the final report shall emphasize and describe the benefits of the early flooding program, marsh management practices demonstrated to be effective at reducing the frequency or duration of major mosquito outbreaks, improved or modified mosquito control measures, and how any or all of the foregoing may be applied elsewhere in the state.

2923. This chapter shall remain in effect only until December 31, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2005, deletes or extends that date.

SEC. 3. (a) The sum of one hundred forty thousand dollars ($140,000) is hereby appropriated from the General Fund to the Department of Fish and Game for allocation to the Suisun Resource Conservation District for the purpose of implementing the Suisun Marsh Wetlands Enhancement and Mosquito Abatement Demonstration Program established pursuant to Chapter 12 (commencing with Section 2920) of Division 3 of the Fish and Game Code.

(b) The department shall allocate the sum of thirty-five thousand dollars ($35,000) to the conservation district in each of the 2000–01, 2001–02, 2002–03, and 2003–04 fiscal years, as follows:

(1) Up to twenty thousand dollars ($20,000) shall be expended by the conservation district each year for the following purposes:

(A) From July 1 until September 30 of each year, the conservation district shall pay 75 percent of the cost incurred by the mosquito district for any necessary mosquito abatement activities undertaken by the mosquito district on lands previously authorized to participate in the current year's early flooding program. The remaining 25 percent of those costs shall be borne by the owner or owners of the affected property, and they shall pay that amount to the conservation district within 30 days after receipt of an invoice for those costs from the conservation district. If the owner or owners do not pay the full 25 percent copayment amount within that 30-day period, the owner or owners shall pay the mosquito district the full 100 percent of the costs incurred by the mosquito district for mosquito abatement activities on the affected property, and the conservation district shall be relieved of the obligation to pay any portion of the cost of those activities on that property.

(B) After October 1 of each year, all private wetlands in the Suisun Marsh are eligible to receive program funds, to the extent available, to

defray the costs of mosquito abatement incurred during the late flooding program. The mosquito district shall continue its policy in effect on January 1, 1999, of only charging one-half of the abatement costs it incurs during the late flooding program in the Suisun Marsh. The conservation district shall pay 75 percent of those costs and the owner or owners of the affected property shall pay the remaining 25 percent of those costs to the conservation district within 30 days after receipt of an invoice for those costs from the conservation district. If the owner or owners do not pay the full 25 percent copayment amount within that 30-day period, the owner or owners shall pay the mosquito district the full 100 percent of the costs incurred by the mosquito district for mosquito abatement activities on the affected property, and the conservation district shall be relieved of the obligation to pay any portion of the cost of those activities on that property.

(C) Any funds not expended by December 31 of each year pursuant to subparagraphs (A) and (B) may be used by the conservation district for the purposes specified in paragraph (2).

(2) Not less than fifteen thousand dollars ($15,000) of the amount allocated each year shall be used for the purpose of reimbursing the conservation district for expenses it incurs implementing the program.

(c) The department may not allocate any funds from the General Fund for purposes of the program after December 31, 2004.

(d) All payments made to the conservation district shall be in arrears. The conservation district shall submit invoices to the Department of Fish and Game for reimbursement of its program related costs quarterly. Each invoice shall be accompanied by an itemized accounting of its costs, and shall include any invoices the conservation district has received from the mosquito district.

(e) As used in this section, the terms ''conservation district,'' ''early flooding programs,'' ''late flooding program,'' ''mosquito district,'' and ''program'' have the same meaning as defined by Section 2921 of the Fish and Game Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 224

An act to repeal and add Section 1658.1 of the Business and Professions Code, relating to dentists.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 1658.1 of the Business and Professions Code is repealed.

SEC. 2. Section 1658.1 is added to the Business and Professions Code, to read:

1658.1. Nothing in this chapter shall be construed to prohibit a licensed dentist from maintaining more than one dental office in this state if all of the following conditions are met:

(a) In addition to any existing legal responsibility or liability, a dentist maintaining more than one office shall assume legal responsibility and liability for the dental services rendered in each of the offices maintained by the dentist.

(b) A dentist maintaining more than one office shall ensure that each office is in compliance with the supervision requirements of this chapter.

(c) A dentist maintaining more than one office shall post, in an area which is likely to be seen by all patients who use the facility, a sign with the dentist's name, mailing address, telephone number, and dental license number.

CHAPTER 225

An act to amend Section 48900.6 of, and to repeal Section 48900.6 of, the Education Code, relating to pupil discipline.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 48900.6 of the Education Code, as amended by Chapter 972 of the Statutes of 1995, is amended to read:

48900.6. As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written

permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. For the purposes of this section, ''community service'' may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

SEC. 2. Section 48900.6 of the Education Code, as added by Section 1 of Chapter 212 of the Statutes of 1993, is repealed.

CHAPTER 226

An act to amend Section 1203.4 of the Penal Code, relating to sex offenders.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application

and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(f) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

CHAPTER 227

An act to amend Section 24011 of, and to add Section 6523.8 to, the Government Code, relating to Tuolumne County.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 6523.8 is added to the Government Code, to read:

6523.8. (a) Notwithstanding any other provision of this chapter, a nonprofit hospital in the County of Tuolumne may enter into a joint powers agreement with a public agency, as defined in Section 6500.

(b) Nonprofit hospitals and public agencies participating in a joint powers agreement entered into pursuant to subdivision (a) shall not reduce or eliminate any emergency services, as a result of that agreement, following the creation of the joint powers authority without a public hearing by the authority.

(c) The joint powers authority shall provide public notice of the hearing to the communities served by the authority not less than 14 days prior to the hearing and the notice shall contain a description of the proposed reductions or changes.

(d) Nothing in this section shall be construed to grant any power to any nonprofit hospital that participates in an agreement authorized under this section to levy any tax or assessment. Nothing in this section shall permit any entity, other than a nonprofit hospital corporation or a public agency, to participate as a party to an agreement authorized under this section.

SEC. 2. Section 24011 of the Government Code is amended to read:

24011. Notwithstanding the provisions of Section 24009:

(a) The Boards of Supervisors of Madera County, Mendocino County, Trinity County, Tuolumne County, and Lake County may, by ordinance, provide that the public administrator shall be appointed by the board.

(b) The Boards of Supervisors of Madera County, Mendocino County, Trinity County, Tuolumne County, and Lake County may appoint the same person to the offices of public administrator, veteran service officer, and public guardian.

(c) The Boards of Supervisors of Madera County, Mendocino County, Trinity County, Tuolumne County, and Lake County may separate the consolidated offices of district attorney and public administrator at any time in order to make the appointments permitted by this section. Upon approval by the board of supervisors, the officer elected to these offices at any time may resign, or decline to qualify for, the office of public administrator without resigning from, or declining to qualify for, the office of district attorney.

SEC. 3. Section 24011 of the Government Code is amended to read:

24011. Notwithstanding the provisions of Section 24009:

(a) The Boards of Supervisors of Madera County, Mendocino County, Solano County, Trinity County, Tuolumne County, and Lake County may, by ordinance, provide that the public administrator shall be appointed by the board.

(b) The Boards of Supervisors of Madera County, Mendocino County, Trinity County, Tuolumne County, and Lake County may appoint the same person to the offices of public administrator, veteran service officer, and public guardian. The Board of Supervisors of Solano County may, by ordinance, appoint the same person to the offices of public administrator and public guardian.

(c) The Boards of Supervisors of Madera County, Mendocino County, Trinity County, Tuolumne County, and Lake County may separate the consolidated offices of district attorney and public administrator at any time in order to make the appointments permitted by this section. Upon approval by the board of supervisors, the officer elected to these offices at any time may resign, or decline to qualify for, the office of public administrator without resigning from, or declining to qualify for, the office of district attorney.

SEC. 4. Section 3 of this bill incorporates amendments to Section 24011 of the Government Code proposed by both this bill and AB 766. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 24011 of the Government Code, and (3) this bill is enacted after AB 766, in which case Section 2 of this bill shall not become operative.

SEC. 5. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the

meaning of Section 16 of Article IV of the California Constitution because of unique circumstances in Tuolumne County.

CHAPTER 228

An act to amend Section 256 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 256 of the Welfare and Institutions Code is amended to read:

256. Subject to the orders of the juvenile court, a juvenile hearing officer may hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code, except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment provisions of the Harbors and Navigation Code or the vessel registration provisions of the Vehicle Code, (5) a violation of any provision of state or local law relating to traffic offenses, loitering or curfew, or evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code, involving defacing property with paint or any other liquid, (13) a violation of subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction, or (16) any misdemeanor for which the minor is cited to appear by a probation officer pursuant to subdivision (f) of Section 660.5.

CHAPTER 229

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. This act may be cited as the Second Validating Act of 2000.

SEC. 2. As used in this act:

(a) ''Public body'' means the state and all departments, agencies, boards, commissions, and authorities of the state. ''Public body'' also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.
County sanitation districts.
County service areas.
County transportation commissions.
County water agencies.
County water authorities.
County water districts.
County waterworks districts.
Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Distribution districts of any public body.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.

Metropolitan water districts.
Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.

Transit development boards.
Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) ''Bonds'' means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) ''Hereafter'' means any time subsequent to the effective date of this act.

(d) ''Heretofore'' means any time prior to the effective date of this act.

(e) ''Now'' means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public

body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or

inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 230

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. This act may be cited as the Third Validating Act of 2000.

SEC. 2. As used in this act:

(a) ''Public body'' means the state and all departments, agencies, boards, commissions, and authorities of the state. ''Public body'' also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County sanitation districts.
County service areas.
County transportation commissions.
County water agencies.
County water authorities.
County water districts.
County waterworks districts.
Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Distribution districts of any public body.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.

Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.

Transit districts.
Unified and union school districts' public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) ''Bonds'' means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) ''Hereafter'' means any time subsequent to the effective date of this act.

(d) ''Heretofore'' means any time prior to the effective date of this act.

(e) ''Now'' means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done

or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or

that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

CHAPTER 231

An act to add Section 23396.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 23396.2 is added to the Business and Professions Code, to read:

23396.2. (a) An on-sale general license for a wine, food and art cultural museum, and educational center authorizes those persons described in subdivision (b) to sell, furnish, or give alcoholic beverages for consumption on the premises and off-sale privileges, as further qualified herein. Such off-sale privileges shall be limited to the sale of no more than six thousand (6,000) cases per calendar year of wine labeled with and otherwise bearing only the name, logo, trademark and/or other proprietary art owned by the wine, food and art cultural museum and educational center licensee. In no event shall such wine bear a name, logo, trademark and/or other proprietary art or statement identifying any other licensee.

(b) For purposes of this division, ''a wine, food and art cultural museum, and educational center'' is a person which meets all the following conditions:

(1) The retail premises includes an auditorium, concert terrace, exhibition gallery, teaching kitchen, and library and may be adjacent to a bona fide eating place as defined in Section 23038.

(2) The premises is located in Napa County , operated by a nonprofit entity that is exempt from payment of income taxes under Section 501(c)(3) of the Internal Revenue Code, and includes real estate improvements of a value of at least forty-five million dollars ($45,000,000).

(c) The department shall upon request and qualification issue an on-sale general wine, food and art cultural museum, and educational center licensee a duplicate of the original license for a premises located on commonly owned property contiguous to, or in close proximity to the original licensed premises. As used in this section, ''close proximity'' shall mean the original licensed premises is no further than 900 feet from the premises issued the duplicate license regardless of whether the two premises are separated by a public or private street, alley, or sidewalk.

(d) There shall be no limit as to the number of events held on an on-sale general wine, food and art cultural museum, and educational center premises or duplicate premises at which a person or persons issued caterer's permits under Section 23399 may sell alcoholic beverages so long as the on-sale general license for a wine, food and art cultural museum, and educational center surrenders its license privileges for any portion of the premises at which a catered event is held for the duration of the event.

(e) A wine, food and art cultural museum, and educational center licensed under this section shall not be included in the definition of ''public premises'' under Section 23039.

(f) The provisions of Article 2 (commencing with Section 23815) of Chapter 5 do not apply to the issuance of on-sale general licenses for a wine, food and art cultural museum, and educational center. An on-sale

wine, food and art cultural museum, and educational center license may be transferred to another person, qualified pursuant to subdivision (b), but not to another location. A licensee specified in this section shall purchase no alcoholic beverages for sale in this state other than from a wholesaler or winegrower licensee. Notwithstanding any other provision of this division, licensees may donate wine to a person licensed under this section.

(g) Notwithstanding any other provision of this division, a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler may hold the ownership of any interest, directly or indirectly, in the premises and in the license of a wine, food and art cultural museum, and educational center, may serve as an officer, director, employee, or agent of a wine, food and art cultural museum, and educational center licensee, and may sponsor or fund educational programs, special fundraising and promotional events, improvements in capital projects, and the development of exhibits or facilities of and for a wine, food and art cultural museum, and educational center licensee provided the number of items of beer, wine, or distilled spirits by brand, exclusive of wine labeled for the wine, food and cultural museum, and educational center licensee authorized in subdivision (a) of this section, offered for sale by the wine, food and art cultural museum, and educational center licensee, which are produced, bottled, rectified, distilled, processed, imported, or sold by an individual licensee holding an interest in, serving as an officer, director, employee or agent of, or sponsoring or funding the programs and projects of the retail licensee, does not exceed 15 percent of the total items of beer, wine, or distilled spirits by brand listed and offered for sale in the retail licensed premises.

(h) An applicant for an original on-sale general license for a wine, food and art cultural museum, and educational center shall, at the time of filing the application for the license, accompany the application with a fee of twelve thousand dollars ($12,000). The annual renewal fee for a license issued pursuant to this section shall be the same as the applicable renewal fee for an on-sale general license.

(i) An applicant for a duplicate on-sale general license for a wine, food and art cultural museum, and educational center shall, at the time of filing the application for the license, accompany the application with a fee equal to the license fee for an on-sale general license. The annual renewal fee for a duplicate license issued pursuant to this section shall be the same as the applicable renewal fee for an on-sale general license.

CHAPTER 232

An act to amend Section 798.44 of the Civil Code, relating to mobilehome parks.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 798.44 of the Civil Code is amended to read:

798.44. (a) The management of a park that does not permit mobilehome owners or park tenants to purchase liquefied petroleum gas for use in the mobilehome park from someone other than the mobilehome park management shall not sell liquefied petroleum gas to mobilehome owners and tenants within the park at a cost which exceeds 110 percent of the actual price paid by the management of the park for liquefied petroleum gas.

(b) The management of a park shall post in a visible location the actual price paid by management for liquefied petroleum gas sold pursuant to subdivision (a).

(c) This section shall apply only to mobilehome parks regulated under the Mobilehome Residency Law. This section shall not apply to recreational vehicle parks, as defined in Section 18215 of the Health and Safety Code, which exclusively serve recreational vehicles, as defined in Section 18010 of the Health and Safety Code.

(d) Nothing in this section is intended to abrogate any rights a mobilehome park owner may have under Section 798.31 of the Civil Code.

(e) In addition to a mobilehome park described in subdivision (a), the requirements of subdivisions (a) and (b) shall apply to a mobilehome park where requirements of federal, state, or local law or regulation, including, but not limited to, requirements for setbacks between mobilehomes, prohibit homeowners or tenants from installing their own liquefied petroleum gas supply tanks, notwithstanding that the management of the mobilehome park permits mobilehome owners and park tenants to buy their own liquefied petroleum gas.

CHAPTER 233

An act to amend Section 76 of the Penal Code, relating to public officials.

[Approved by Governor August 22, 2000. Filed with
Secretary of State August 23, 2000.]

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

SECTION 1. Section 76 of the Penal Code is amended to read:

76. (a) Every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, or the staff or immediate family of any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense, punishable as follows:

(1) Upon a first conviction, the offense is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) If the person has been convicted previously of violating this section, the previous conviction shall be charged in the accusatory pleading, and if the previous conviction is found to be true by the jury upon a jury trial, or by the court upon a court trial, or is admitted by the defendant, the offense is punishable by imprisonment in the state prison.

(b) Any law enforcement agency that has knowledge of a violation of this section involving a constitutional officer of the state, a Member of the Legislature, or a member of the judiciary shall immediately report that information to the Department of the California Highway Patrol.

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

(1) ''Apparent ability to carry out that threat'' includes the ability to fulfill the threat at some future date when the person making the threat is an incarcerated prisoner with a stated release date.

(2) ''Serious bodily harm'' includes serious physical injury or serious traumatic condition.

(3) ''Immediate family'' means a spouse, parent, or child, or anyone who has regularly resided in the household for the past six months.

(4) ''Staff of a judge'' means court officers and employees, including commissioners, referees, and retired judges sitting on assignment.

(5) ''Threat'' means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to

reasonably fear for his or her safety or the safety of his or her immediate family.

(d) As for threats against staff, the threat must relate directly to the official duties of the staff of the elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms in order to constitute a public offense under this section.

(e) A threat must relate directly to the official duties of a Deputy Commissioner of the Board of Prison Terms in order to constitute a public offense under this section.

CHAPTER 234

An act to amend Section 8538 of the Business and Professions Code, and to add Section 1940.8 to the Civil Code, relating to landlords.

[Approved by Governor August 22, 2000. Filed with Secretary of State August 23, 2000.]

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

SECTION 1. Section 8538 of the Business and Professions Code is amended to read:

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled or in the case of wood roof cleaning and treatment registered company applications, the purpose of applying the wood preservative or preservatives.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) ''State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that based on existing scientific evidence there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.''

''If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately.'' (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

''For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions—the County Health Department (telephone number); for Application Information—the County Agricultural Commissioner (telephone number) and for Regulatory Information—the Structural Pest Control Board (telephone number and address).''

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice, as prescribed by subdivision (a), shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2, Branch 3, or wood roof cleaning and treatment registered company applications, the notice, as prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

SEC. 2. Section 1940.8 is added to the Civil Code, to read:

1940.8. A landlord of a residential dwelling unit shall provide each new tenant that occupies the unit with a copy of the notice provided by a registered structural pest control company pursuant to Section 8538 of the Business and Professions Code, if a contract for periodic pest control service has been executed.

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 235

An act to amend Section 803 of the Penal Code, relating to limitations of actions.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. 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.

(h) (1) Notwithstanding the limitation of time described in Section 800, the limitations period for commencing prosecution for a felony offense described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, where the limitations period set forth in Section 800 has not expired as of January 1, 2001, or the offense is committed on or after January 1, 2001, shall be 10 years from the commission of the offense, or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later, provided, however, that the one-year period from the establishment of the identity of the suspect shall only apply when either of the following conditions is met:

(A) For an offense committed prior to January 1, 2001, biological evidence collected in connection with the offense is analyzed for DNA type no later than January 1, 2004.

(B) For an offense committed on or after January 1, 2001, biological evidence collected in connection with the offense is analyzed for DNA type no later than two years from the date of the offense.

(2) In the event the conditions set forth in subparagraph (A) or (B) of paragraph (1) are not met, the limitations period for commencing prosecution for a felony offense described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, where the limitations period set forth in Section 800 has not expired as of January 1, 2001, or the offense is committed on or after January 1, 2001, shall be 10 years from the commission of the offense.

(3) For purposes of this section, ‘‘DNA’’ means deoxyribonucleic acid.

SEC. 3. This act shall become operative only if Senate Bill 1342 is enacted.

CHAPTER 236

An act to amend Section 243 of the Penal Code, relating to crimes.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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 nonsworn employee of a probation department 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 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, nonsworn employee of a probation department, 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 nonsworn employee of a probation department 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 nonsworn employee of a probation department, 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. 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 237

An act to amend Section 21328 of, and to add Sections 31664.1, 31664.2, and 31681.55 to, the Government Code, relating to retirement.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 21328 of the Government Code is amended to read:

21328. (a) 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, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state, local, or school member who retired or died prior to January 1, 2000, or the date this section becomes applicable to the contracting agency, 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, or the date this section becomes applicable to the contracting agency, 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.

(b) This section shall not apply to any contracting agency unless and until the agency elects to be subject to its provisions by amendment to its contract, made in the manner prescribed for approval of contracts, or, in the case of contracts made after the effective date of this section, by an express provision in the contract making the contracting agency subject to the provisions of this section.

SEC. 2. Section 31664.1 is added to the Government Code, to read:

31664.1. (a) This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

(b) Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for safety members purchased by the contributions of the county or district sufficient when added to the service retirement annuity to equal 3 percent of the member's 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 current service or years of current and prior service with which the member is entitled to be credited at retirement. In no event shall the total retirement allowance exceed the limitation of the safety member's final compensation as set forth in Section 31676.1, as it now reads or may hereafter be amended to read.

Age at Retirement	Fraction
41	.6258
41 1/4	.6350
41 1/2	.6442
41 3/4	.6533
42	.6625
42 1/4	.6720
42 1/2	.6814
42 3/4	.6909
43	.7004
43 1/4	.7102
43 1/2	.7200
43 3/4	.7299
44	.7397
44 1/4	.7499
44 1/2	.7601
44 3/4	.7703

45	.7805
45 1/4	.7910
45 1/2	.8016
45 3/4	.8121
46	.8226
46 1/4	.8339
46 1/2	.8452
46 3/4	.8586
47	.8678
47 1/4	.8780
47 1/2	.8882
47 3/4	.8983
48	.9085
48 1/4	.9194
48 1/2	.9304
48 3/4	.9413
49	.9522
49 1/4	.9641
49 1/2	.9761
49 3/4	.9880
50 and over	1.0000

(c) Contributions shall not be made by safety members having credit for 30 years of continuous service.

SEC. 3. Section 31664.2 is added to the Government Code, to read:

31664.2. (a) This section may be made applicable in any county on the first day of the month after the board of supervisors of the county adopts, by majority vote, a resolution providing that this section shall become applicable in the county.

(b) Notwithstanding any other provisions of this chapter, the current service pension or the current service pension combined with the prior service pension is an additional pension for safety members purchased by the contributions of the county or district sufficient when added to the service retirement annuity to equal 3 percent of the member's 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 current service or years of current and prior service with which the member is entitled to be credited at retirement. In no event shall the total retirement allowance exceed the limitation of the safety member's final compensation as set forth in Section 31676.1, as it now reads or may hereafter be amended to read.

Age at Retirement	Fraction
41	.4777
41 1/4	.4848
41 1/2	.4918
41 3/4	.4987
42	.5058
42 1/4	.5130
42 1/2	.5202
42 3/4	.5274
43	.5347
43 1/4	.5422
43 1/2	.5497
43 3/4	.5572
44	.5647
44 1/4	.5725
44 1/2	.5803
44 3/4	.5881
45	.5958
45 1/4	.6039
45 1/2	.6120
45 3/4	.6200
46	.6280
46 1/4	.6366
46 1/2	.6452
46 3/4	.6555
47	.6625
47 1/4	.6703
47 1/2	.6781
47 3/4	.6858
48	.6936
48 1/4	.7019
48 1/2	.7103
48 3/4	.7186
49	.7269
49 1/4	.7360
49 1/2	.7452
49 3/4	.7543
50	.7634

50 1/4	.7733
50 1/2	.7832
50 3/4	.7930
51	.8028
51 1/4	.8135
51 1/2	.8242
51 3/4	.8349
52	.8457
52 1/4	.8574
52 1/2	.8691
52 3/4	.8808
53	.8926
53 1/4	.9053
53 1/2	.9182
53 3/4	.9310
54	.9418
54 1/4	.9579
54 1/2	.9718
54 3/4	.9860
55 and over	1.0000

(c) Contributions shall not be made by safety members having credit for 30 years of continuous service.

SEC. 4. Section 31681.55 is added to the Government Code, to read:

31681.55. Effective the first day of the first month after adoption of this section by the board of supervisors, allowance paid with respect to any member of this system who retired or died prior to January 1, 2001, 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:
January 1, 1998, or later	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 the effective date, and the allowance as so increased shall be paid for time on and after that date and shall be subject to annual cost-of-living adjustments.

(b) This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

CHAPTER 238

An act to amend Section 7150 of the Fish and Game Code, relating to fishing.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 7150 of the Fish and Game Code is amended to read:

7150. (a) Upon application to the department's headquarters office in Sacramento and payment of a base fee of four dollars ($4), as adjusted pursuant to Section 713, the following persons, who have not been convicted of any violation of this code, shall be issued a reduced fee sportfishing license that is valid for the calendar year of issue, or, if issued after the beginning of the year, for the remainder thereof and that authorizes the licensee to take any fish, reptile, or amphibia anywhere in this state as otherwise authorized pursuant to this code and regulations adopted pursuant thereto for purposes other than profit:

(1) A disabled veteran having a 50 percent or greater service connected disability upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Veterans Administration or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) A person receiving aid to the aged under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) A person over 65 years of age who is a resident of this state and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12200 of the Welfare and Institutions Code for single persons or subdivision (d) of

Section 12200 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a reduced fee license during the following calendar year.

(b) A person applying for a reduced fee sportfishing license shall submit adequate documentation for the department to determine whether the applicant is, in fact, eligible for a reduced fee sportfishing license. The documentation shall be in the form of a letter or other document, as specified by the department, from a public agency, except as provided in paragraph (1) of subdivision (a). The department shall not issue a reduced fee sportfishing license to any person unless it is satisfied that the applicant has provided adequate documentation of eligibility for that license.

(c) The adjustment of the base fee pursuant to Section 713 specified in subdivision (a) shall be applicable to the fishing license years beginning on or after January 1, 1996.

CHAPTER 239

An act to amend Section 1596.60 of the Health and Safety Code, relating to children.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 1596.60 of the Health and Safety Code is amended to read:

1596.60. For the purposes of this chapter, the following definitions shall apply:

(a) ''Department'' means the State Department of Social Services.

(b) ''Director'' means the Director of Social Services.

(c) ''Trustline provider,'' ''license exempt child care provider,'' or ''provider,'' for the purposes of this chapter means a person 18 years of age or older who provides child care, supervision, or any person providing in-home educational or counseling services to a minor, and who is not required to be licensed pursuant to Section 1596.792.

CHAPTER 240

An act to amend Section 290 of the Penal Code, relating to sex offenders.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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, 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) (1) 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 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.

(2) 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 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 in open court by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under

this section has been explained to him or her. If the court finds that it is in the interest of the efficiency of the court, the court may assign the bailiff to require the person to read and sign forms under this section. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in 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 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, 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.

CHAPTER 241

An act to amend Section 10123.13 of, and to amend and renumber Section 10123.135 of, the Insurance Code, relating to insurance.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 10123.13 of the Insurance Code, is amended to read:

10123.13. (a) Every insurer issuing group or individual policies of disability insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer, in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the insurer. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

(b) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 30 working days after receipt, interest shall accrue and shall be payable at the rate of 10 percent per annum beginning with the first calendar day after the 30-working day period.

(c) For purposes of this section, a claim, or portion thereof, is reasonably contested when the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant. If an insurer has received all of the information necessary to determine payer liability for

a contested claim and has not reimbursed a claim determined to be payable within 30 working days of receipt of that information, interest shall accrue and be payable at a rate of 10 percent per annum beginning with the first calendar day after the 30-working day period.

(d) The obligation of the insurer to comply with this section shall not be deemed to be waived when the insurer requires its contracting entities to pay claims for covered services.

SEC. 2. Section 10123.135 of the Insurance Code, as added by Chapter 88 of the Statutes of 1999, is amended and renumbered to read:

10123.132. (a) Every disability insurer that covers hospital, medical, or surgical expenses and that reviews and approves the medical necessity or appropriateness of requests by providers prior to, or concurrently with, the provision of health care services to insureds, shall prominently indicate on each insured's identification card whether a separate telephone number must be called to verify eligibility for benefits and coverage.

(b) A written notice shall accompany the initial mailing of the insured's identification card modified pursuant to subdivision (a). The notice shall indicate that the insured's identification card includes a telephone number that may be used to verify eligibility for benefits and coverage. The notice shall also inform the insured that review and approval of a health care service based on medical necessity or appropriateness does not constitute eligibility for benefits and coverage pursuant to the policy or contract.

CHAPTER 242

An act to amend Section 206 of the Code of Civil Procedure, relating to juries.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 206 of the Code of Civil Procedure is amended to read:

206. (a) Prior to discharging the jury from the case, the judge in a criminal action shall inform the jurors that they have an absolute right to discuss or not to discuss the deliberation or verdict with anyone. The judge shall also inform the jurors of the provisions set forth in subdivisions (b), (d), and (e).

(b) Following the discharge of the jury in a criminal case, the defendant, or his or her attorney or representative, or the prosecutor, or his or her representative, may discuss the jury deliberation or verdict with a member of the jury, provided that the juror consents to the discussion and that the discussion takes place at a reasonable time and place.

(c) If a discussion of the jury deliberation or verdict with a member of the jury pursuant to subdivision (b) occurs at any time more than 24 hours after the verdict, prior to discussing the jury deliberation or verdict with a member of a jury pursuant to subdivision (b), the defendant or his or her attorney or representative, or the prosecutor or his or her representative, shall inform the juror of the identity of the case, the party in that case which the person represents, the subject of the interview , the absolute right of the juror to discuss or not discuss the deliberations or verdict in the case with the person, and the juror's right to review and have a copy of any declaration filed with the court.

(d) Any unreasonable contact with a juror by the defendant, or his or her attorney or representative, or by the prosecutor, or his or her representative, without the juror's consent shall be immediately reported to the trial judge.

(e) Any violation of this section shall be considered a violation of a lawful court order and shall be subject to reasonable monetary sanctions in accordance with Section 177.5 of the Code of Civil Procedure.

(f) Nothing in the section shall prohibit a peace officer from investigating an allegation of criminal conduct.

(g) Pursuant to Section 237, a defendant or defendant's counsel may, following the recording of a jury's verdict in a criminal proceeding, petition the court for access to personal juror identifying information within the court's records necessary for the defendant to communicate with jurors for the purpose of developing a motion for new trial or any other lawful purpose. This information consists of jurors' names, addresses, and telephone numbers. The court shall consider all requests for personal juror identifying information pursuant to Section 237.

CHAPTER 243

An act to amend Sections 11102, 11102.5, 11104, 11110, and 11202.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 11102 of the Vehicle Code is amended to read:

11102. (a) A driving school owner, or the principal in an all-terrain vehicle safety training organization, shall meet all of the following requirements:

(1) Maintain an established place of business open to the public. No office or place of business shall be situated within 500 feet of any building used by the department as an office, unless the owner was established at that location on or before January 1, 1976.

(2) Have the proper equipment necessary to give instruction in the operation of the class of vehicles for which the course is designed, which shall include, but not be limited to, training vehicles equipped with all of the following:

(A) An additional functional foot brake affixed to the right side of the front floor.

(B) A rearview mirror placed on the inside of the windshield on the right side, which is additional to the factory-installed mirror in the center of the windshield.

(3) Procure and file with the department a bond of ten thousand dollars ($10,000) executed by an admitted surety insurer and conditioned that the applicant shall not practice any fraud or make any fraudulent representation that will cause a monetary loss to a person taking instruction from the applicant.

(4) Meet the requirements of Section 11105.2 and, if the person is the owner of a driving school, meet the requirements of Section 11102.5. If the owner is not the operator of the driving school, the owner shall designate an operator who shall meet the requirements of Section 11102.5.

(5) (A) File with the department an instrument, in writing, appointing the director as the agent of the applicant upon whom a process may be served in any action commenced against the applicant arising out of any claim for damages suffered by any person by the applicant's violation of any provision of this code or any condition of the bond.

(B) The applicant shall stipulate in the instrument that any process directed to the applicant, when personal service cannot be made in this state after due diligence, may be served upon the director or, if the director is absent from the office, upon any employee in charge of the office of the director, in which case the service is of the same effect as if served upon the applicant personally. The applicant shall further stipulate, in writing, that the agency created by the instrument shall continue during the period covered by the license and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond.

(C) The instrument appointing the director as agent for the applicant for service of process shall be acknowledged by the applicant before a notary public.

(D) If the licensee is served with process by service upon the director, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint.

(E) The service on the director is a sufficient service on the licensee if the plaintiff or the plaintiff's attorney also, on the same day, sends notice of the service and a copy of the summons and complaint by registered mail to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or his or her attorney to the surety of the applicant's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt.

(F) The director shall keep a record of all process served upon the director under this paragraph showing the day and hour of service, and the director shall retain the summons and complaint served on file.

(G) If the licensee is served with process by service thereof upon the director, the licensee has 30 days after that service within which to answer any complaint or other pleading filed in the cause. For purposes of venue, if the licensee is served with process by service upon the director, the service is deemed to have been made upon the licensee in the county in which the licensee has or last had the licensee's established place of business.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and a fee shall be required.

SEC. 2. Section 11102.5 of the Vehicle Code is amended to read:

11102.5. (a) A driving school operator shall meet all of the following requirements:

(1) Within three attempts, pass an examination that the department requires on traffic laws, safe driving practices, operation of motor vehicles, teaching methods and techniques, driving school statutes and regulations, and office procedures and recordkeeping.

(2) Pay the department a fee of one hundred dollars ($100), which shall entitle the applicant to three examinations.

(3) Be 21 years of age or older.

(4) Have worked for an established licensed California driving school as a driving instructor for a period of not less than 2,000 hours of actual behind-the-wheel teaching and, on and after July 1, 1973, have satisfactorily completed a course in the teaching of driver education and driver training acceptable to the department, except that the operator, including an owner who is also the operator, of a driving school that

exclusively teaches motorcycle driving may, in lieu of the behind-the-wheel teaching requirement, have worked for an established licensed California driving school as a motorcycle driving instructor for not less than 300 hours of actual motorcycle range and street teaching, have taught 300 hours of actual motorcycle range and street instruction under the guidance of the Motorcycle Safety Foundation, or have given comparable training instruction that is acceptable to the department. This paragraph does not apply to any person who is certified by the State Department of Education as fully qualified to teach driver education and driver training and has taught those subjects in the public school system for not less than 1,000 hours.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and a fee shall be required.

SEC. 3. Section 11104 of the Vehicle Code is amended to read:

11104. (a) Every person, in order to qualify as a driving instructor, as defined in Section 310.4, shall meet all of the following requirements:

(1) On and after July 1, 1973, have a high school education or its equivalent and have satisfactorily completed a course in the teaching of driver education and driver training acceptable to the department.

(2) Within three attempts, pass an examination that the department requires on traffic laws, safe driving practices, operation of motor vehicles, and teaching methods and techniques.

(3) Be physically able to safely operate a motor vehicle and to train others in the operation of motor vehicles.

(4) Hold a valid California driver's license in a class appropriate for the type of vehicle in which instruction will be given.

(5) Not be on probation to the department as a negligent operator.

(6) Have a driving record that does not have an outstanding notice for violating a written promise to appear in court or for willfully failing to pay a lawfully imposed fine, as provided in Section 40509.

(7) Be 21 years of age or older.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and a fee shall be required.

SEC. 4. Section 11110 of the Vehicle Code is amended to read:

11110. (a) The department, after notice and hearing, may suspend or revoke any license issued under this chapter if any of the following occur:

(1) The department finds and determines that the licensee fails to meet the requirements to receive or hold a license under this chapter.

(2) The licensee fails to keep the records required by this chapter.

(3) The licensee (A) permits fraud or engages in fraudulent practices either with reference to an applicant for a driver's license or an all-terrain

vehicle safety certificate or the department, or (B) induces or countenances fraud or fraudulent practices on the part of any applicant.

(4) The licensee fails to comply with this chapter or regulation or requirement of the department adopted pursuant thereto.

(5) The licensee represents himself or herself as an agent or employee of the department or uses advertising designed to create the impression, or that would reasonably have the effect of leading persons to believe, that the licensee is in fact an employee or representative of the department; or the licensee makes an advertisement, in any manner or by any means, which is untrue or misleading and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(6) The licensee, or any employee or agent of the licensee, solicits driver training or instruction or all-terrain vehicle safety instruction in, or within 200 feet of, an office of the department.

(7) The licensee is convicted of violating Section 14606, 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or subdivision (c) of Section 192 of the Penal Code. A conviction, after a plea of nolo contendere, is a conviction within the meaning of this paragraph.

(8) The licensee teaches, or permits a student to be taught, the specific tests administered by the department through use of the department's forms or testing facilities.

(9) The licensee conducts training, or permits training by any employee, in an unsafe manner or contrary to safe driving practices.

(10) The licensed school owner or licensed driving school operator teaches, or permits an employee to teach, driving instruction or all-terrain vehicle safety instruction without a valid instructor's license.

(11) The licensed school owner does not have in effect a bond as required by Section 11102.

(12) The licensee permits the use of the license by any other person for the purpose of permitting that person to engage in the ownership or operation of a school or in the giving of driving instruction or all-terrain vehicle safety instruction for compensation.

(13) The licensee holds a secondary teaching credential and explicitly or implicitly recruits or attempts to recruit a pupil who is enrolled in a junior or senior high school to be a customer for any business licensed pursuant to this article that is owned by the licensee or for which the licensee is an employee.

(b) In the interest of the public's safety, as determined by the department, the department may immediately suspend the license of any licensee for any alleged violation under this chapter and shall conduct a hearing of the alleged violation within 30 days of the suspension.

SEC. 5. Section 11202.5 of the Vehicle Code is amended to read:

11202.5. (a) The department shall license traffic violator school operators. No person may act as a traffic violator school operator without a currently valid license issued by the department. Every person, in order to qualify as a traffic violator school operator, shall meet all of the following criteria in order to be issued a traffic violator school operator's license:

(1) Have not committed any act which, if the applicant were licensed as a traffic violator school operator, would be grounds for suspension or revocation of the license.

(2) Within three attempts, pass an examination that the department requires on traffic laws, safe driving practices, operation of motor vehicles, teaching methods and techniques, traffic violator school statutes and regulations, and office procedures and recordkeeping.

(3) Be 21 years of age or older.

(4) Have worked for an established California traffic violator school, an established California driving school licensed under Chapter 1 (commencing with Section 11100) of Division 5, or an established commercial driving training and education program operated by a bona fide labor organization as an instructor for a period of not less than 500 hours of actual in-class instruction.

(b) Paragraph (4) of subdivision (a) does not apply to a traffic violator school operator validly licensed prior to January 1, 1987.

(c) All the qualifying requirements specified in this section shall be met within one year from the date of application for the license or the application shall lapse. However, the applicant may thereafter submit a new application upon payment of the required fee.

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 244

An act to amend Section 230.3 of the Labor Code, relating to employees.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 230.3 of the Labor Code is amended to read:

230.3. (a) No employer shall discharge or in any manner discriminate against an employee for taking time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel.

(b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because the employee has taken time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

(c) Subdivisions (a) and (b) of this section shall not apply to any public safety agency or provider of emergency medical services when, as determined by the employer, the employee's absence would hinder the availability of public safety or emergency medical services.

(d) (1) For purposes of this section, ''volunteer firefighter'' shall have the same meaning as the term ''volunteer'' in subdivision (m) of Section 50952 of the Government Code.

(2) For purposes of this section, ''emergency rescue personnel'' means any person who is an officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, or of a sheriff's department, police department, or a private fire department, whether that person is a volunteer or partly paid or fully paid, while he or she is actually engaged in providing emergency services as defined by subdivision (e) of Section 1799.107 of the Health and Safety Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or

changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 245

An act to amend Section 25283.5 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. Section 25283.5 of the Health and Safety Code is amended to read:

25283.5. (a) An underground storage tank that meets all of the following criteria is exempt from the requirements of this chapter:

(1) All exterior surfaces of the tank, including connected piping, and the floor directly beneath the tank, can be monitored by direct viewing.

(2) The structure in which the tank is located is constructed in such a manner that the structure provides for secondary containment of the contents of the tank, as determined by the local agency designated pursuant to Section 25283.

(3) The owner or operator of the underground storage tank conducts weekly inspections of the tank and maintains a log of inspection results for review by the local agency, designated pursuant to Section 25283, as requested by the local agency.

(4) The local agency designated pursuant to Section 25283 determines without objection from the board that the underground storage tank meets requirements that are equal to or more stringent than those imposed by this chapter.

(b) Nothing in this section prohibits a local fire chief or an enforcement agency, as defined in Section 16006, from enforcing the applicable provisions of the local or state fire, building, or electrical codes.

CHAPTER 246

An act to amend Sections 6079.1, 6086.65, and 6140.16 of the Business and Professions Code, relating to the State Bar.

[Approved by Governor August 24, 2000. Filed with
Secretary of State August 25, 2000.]

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

SECTION 1. Section 6079.1 of the Business and Professions Code, as added by Section 3 of Chapter 221 of the Statutes of 1999, is amended to read:

6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court. In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the Governor, one by the Senate Committee on Rules, and one by the Speaker of the Assembly, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a member of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet such other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) Applicants for appointment or reappointment as a State Bar Court judge shall be screened by an applicant evaluation committee as directed by the Supreme Court. The committee, appointed by the Supreme Court, shall submit evaluations and recommendations to the appointing authority and the Supreme Court as provided in Rule 961 of the California Rules of Court, or as otherwise directed by the Supreme Court. The committee shall submit no fewer than three recommendations for each available position.

(d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid the same salary as municipal court judges. The presiding judge shall be paid the same salary as a superior court judge.

(e) From among the members of the State Bar or retired judges, the Supreme Court or the board may appoint pro tempore judges to decide

matters in the Hearing Department of the State Bar Court when a judge of the State Bar Court is unavailable to serve without undue delay to the proceeding. Subject to modification by the Supreme Court, the board may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) A judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity that attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate fee disputes under Article 13 (commencing with Section 6200) of this chapter or to monitor the probation of a member of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise.

SEC. 2. Section 6086.65 of the Business and Professions Code, as added by Section 6 of Chapter 221 of the Statutes of 1999, is amended to read:

6086.65. (a) There is a Review Department of the State Bar Court, that consists of the Presiding Judge of the State Bar Court and two Review Department judges appointed by the Supreme Court. The judges of the Review Department shall be nominated, appointed, and subject to discipline as provided by subdivision (a) of Section 6079.1, shall be qualified as provided by subdivision (b) of Section 6079.1, and shall be compensated as provided for the presiding judge by subdivision (d) of Section 6079.1. However, the two Review Department judges may be appointed to, and paid as, positions occupying one-half the time and pay of the presiding judge. Candidates shall be rated and screened pursuant to Rule 961 of the California Rules of Court or as otherwise directed by the Supreme Court.

(b) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven

persons, including one person who has never been a member of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(c) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. The standard to be applied by the Review Department in reviewing a decision, order, or ruling by a hearing judge fully disposing of a proceeding is established in Rule 951.5 of the California Rules of Court, or as otherwise directed by the Supreme Court.

SEC. 3. Section 6140.16 of the Business and Professions Code is amended to read:

6140.16. The State Bar shall review its workload standards to measure the effectiveness and efficiency of its disciplinary activities, including, but not limited to, the State Bar Court and the Client Security Fund, and provide guidance to the State Bar and the Legislature in allocating resources. The standards shall be used to reassess the numbers and classifications of staff required to conduct the activities of the State Bar's disciplinary activities. The review shall cover the calendar years of 1998, 1999, and 2000. The State Bar shall submit a report to the Legislature on its review of workload standards by June 30, 2001.

CHAPTER 247

An act relating to attorneys.

[Approved by Governor August 24, 2000. Filed with Secretary of State August 25, 2000.]

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

SECTION 1. It is the intent of the Legislature that the Supreme Court of California should adopt rules permitting the admission to the practice of law in California of an attorney who is licensed in another state and who has not passed the California State Bar examination, if the state in which the attorney is licensed to practice affords the same opportunity to licensed attorneys from California. The Legislature also recognizes that the question of reciprocal admission is a complex one, and it, therefore, requests that the Supreme Court appoint a task force to study and make recommendations regarding whether and under what circumstances, attorneys who are licensed to practice law in other states

and who have not passed the California State Bar examination may be permitted to practice law in California. The task force study should consider all of the following factors:

(a) Years of practice in other states.

(b) Admission to practice law in another state.

(c) Specialization of the attorney's practice in another state.

(d) The attorney's intended scope of practice in California.

(e) The admission requirements in the state or states in which the attorney has been licensed to practice.

(f) Reciprocity with and comity with other states.

(g) Moral character requirements.

(h) Disciplinary implications.

(i) Consumer protection.

CHAPTER 248

An act to amend Section 1464 of the Penal Code, relating to brain injuries, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, there shall be levied a state penalty, in an amount equal to ten dollars ($10) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money

in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

SEC. 2. The Controller and any other state official of whom action is required in order to implement this act shall take all necessary actions to ensure that any money transferred from the Traumatic Brain Injury Fund to the State Penalty Fund pursuant to the amendments to Section 1464 of the Penal Code made by Chapter 1023 of the Statutes of 1999 is retransferred into the Traumatic Brain Injury Fund.

SEC. 3. Any money, the transfer of which was required from the Traumatic Brain Injury Fund pursuant to the amendments to Section 1464 of the Penal Code made by Chapter 1023 of the Statutes of 1999, and that, therefore, is required to be retransferred to that fund pursuant to this act, is hereby appropriated to the State Department of Mental

Health for purposes of Chapter 5 (commencing with Section 4353) of Part 3 of Division 4 of the Welfare and Institutions Code without regard to fiscal years.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide at the earliest possible time essential services to adults with acquired traumatic brain injuries by ensuring equitable funding for demonstration projects, it is necessary that this act take effect immediately.

CHAPTER 249

An act to add Sections 6224.5 and 6227.5 to the Penal Code, relating to community correctional facilities.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 6224.5 is added to the Penal Code, to read:

6224.5. The Director of Corrections may commingle inmates who have been assigned to a restitution center pursuant to Section 6227 with inmates who are in transit for community correctional reentry center placement.

SEC. 2. Section 6227.5 is added to the Penal Code, to read:

6227.5. The Judicial Council shall provide information to sentencing courts to ensure that the judges responsible for sentencing are aware of the existence of the restitution center.

CHAPTER 250

An act to add Article 1.5 (commencing with Section 100237) to Chapter 2 of Part 1 of Division 101 of the Health and Safety Code, relating to health research.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Article 1.5 (commencing with Section 100237) is added to Chapter 2 of Part 1 of Division 101 of the Health and Safety Code, to read:

Article 1.5. Inclusion of Women and Minorities in Clinical Research Act.

100237. (a) This article shall be known, and may be cited as, the ''Inclusion of Women and Minorities in Clinical Research Act.''

(b) For purposes of this article, the following definitions and descriptions shall apply:

(1) ''Grantee'' means any qualified public, private, or nonprofit agency or individual, including, but not limited to, colleges, universities, hospitals, laboratories, research institutions, local health departments, voluntary health agencies, health maintenance organizations, corporations, students, fellows, entrepreneurs, and individuals conducting clinical research using state funds. A grantee may also be a corporation that is headquartered in California and that conducts research using state funds.

(2) ''Minority group'' shall be defined pursuant to the definition in the 1993 National Institutes of Health guidelines.

(3) ''Project of clinical research'' includes a clinical trial.

100238. (a) In conducting or supporting a project of clinical research, a grantee shall, except as provided in subdivision (b) or (e), do all of the following:

(1) Ensure that women, including, but not limited to, women over the age of 40 years, are included as subjects in each research project.

(2) Ensure that minority groups are included as subjects in each research project.

(3) Conduct or support outreach programs for the recruitment of women and members of minority groups as subjects in projects of clinical research.

(b) The requirement established in subdivisions (a) and (d) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and minority groups is inappropriate for either of the following reasons:

(1) With respect to the health and safety of the subjects.

(2) With respect to the purpose of the research.

(c) In the case of any clinical trial in which women or members of minority groups will, under subdivision (a), be included as subjects, a grantee shall ensure that the trial is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being

studied in the trial affect women or members of minority groups, as the case may be, differently than other subjects in the trial.

(d) In any grant, or in any contract by a grantee under a grant, the grantee or contracting party shall acknowledge, agree to, and be bound by, the terms of this section.

(e) If a grantee is in compliance with the 1993 National Institutes of Health guidelines, the grantee shall be deemed to be in compliance with this section.

100239. (a) Pursuant to Section 439.904, state agencies shall, and it is the intent of the Legislature that the University of California, include, in appropriate periodic progress reports required under existing law, data on the extent to which state funds administered by those agencies and the University of California, or both, are used by grantees to support research on diseases, disorders, and health conditions that includes women and minorities in the research trials, and that studies diseases, disorders, and health conditions of particular concern to women and minorities.

(b) It is the intent of the Legislature that research shall include, but not be limited to, cardiovascular diseases, cancer, Alzheimer's disease, HIV and AIDS, sickle-cell anemia, obesity, mental illness, arthritis, and osteoporosis.

CHAPTER 251

An act to amend Section 655.5 of the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 655.5 of the Business and Professions Code is amended to read:

655.5. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division, or any clinical laboratory, or any health facility when billing for a clinical laboratory of the facility, to charge, bill, or otherwise solicit payment from any patient, client, or customer for any clinical laboratory service not actually rendered by the person or clinical laboratory or under his, her or its direct supervision unless the patient, client, or customer is apprised at the first time of the charge, billing, or solicitation of the name, address, and charges of the clinical laboratory performing the service. The first such

written charge, bill, or other solicitation of payment shall separately set forth the name, address, and charges of the clinical laboratory concerned and shall clearly show whether or not the charge is included in the total of the account, bill, or charge. This subdivision shall be satisfied if the required disclosures are made to the third-party payer of the patient, client, or customer. If the patient is responsible for submitting the bill for the charges to the third-party payer, the bill provided to the patient for that purpose shall include the disclosures required by this section. This subdivision shall not apply to a clinical laboratory of a health facility or a health facility when billing for a clinical laboratory of the facility nor to a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges. For purposes of this subdivision, ''health facility'' has the same meaning as defined in Section 1250 of the Health and Safety Code.

(b) Commencing July 1, 1994, a clinical laboratory shall provide to each of its referring providers, upon request, a schedule of fees for services provided to patients of the referring provider. The schedule shall be provided within two working days after the clinical laboratory receives the request. For the purposes of this subdivision, a ''referring provider'' means any provider who has referred a patient to the clinical laboratory in the preceding six-month period. Commencing July 1, 1994, a clinical laboratory that provides a list of laboratory services to a referring provider or to a potential referring provider shall include a schedule of fees for the laboratory services listed.

(c) It is also unlawful for any person licensed under this division or under any initiative act referred to in this division to charge additional charges for any clinical laboratory service that is not actually rendered by the licensee to the patient and itemized in the charge, bill, or other solicitation of payment. This section shall not be construed to prohibit any of the following:

(1) Any itemized charge for any service actually rendered to the patient by the licensee.

(2) Any summary charge for services actually rendered to a patient by a health facility, as defined in Section 1250 of the Health and Safety Code, or by a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges.

(d) As used in this section, the term ''any person licensed under this division'' includes a person licensed under paragraph (1) of subdivision (a) of Section 1265, all wholly owned subsidiaries of the person, a parent company that wholly owns the person, and any subsidiaries wholly owned by the same parent that wholly owns the person. ''Wholly

owned'' means ownership directly or through one or more subsidiaries. This section shall not apply to billings by a person licensed under paragraph (1) of subdivision (a) of Section 1265 when the person licensed under paragraph (1) of subdivision (a) of Section 1265 bills for services performed by any laboratory owned or operated by the person licensed under paragraph (1) of subdivision (a) of Section 1265.

(e) This section shall not apply to any person or clinical laboratory who or which contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if the services are to be provided to members of the plan on a prepaid basis and without additional charge or liability on account thereof.

(f) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison.

(g) (1) Notwithstanding subdivision (f), a violation of this section by a physician and surgeon for a first offense shall be subject to the exclusive remedy of reprimand by the Medical Board of California if the transaction that is the subject of the violation involves a charge for a clinical laboratory service that is less than the charge would have been if the clinical laboratory providing the service billed a patient, client, or customer directly for the clinical laboratory service, and if that clinical laboratory charge is less than the charge listed in the clinical laboratory's schedule of fees pursuant to subdivision (b).

(2) Nothing in this subdivision shall be construed to permit a physician and surgeon to charge more than he or she was charged for the laboratory service by the clinical laboratory providing the service unless the additional charge is for service actually rendered by the physician and surgeon to the patient.

CHAPTER 252

An act to amend Sections 23772 of, and to repeal and add Sections 23701b, 23701c, 23701e, 23701f, 23701g, 23701i, 23701j, 23701*l*, 23701n, 23701s, 23702, 23704, 23704.3, 23704.4, 23704.5, 23704.6, and 23740 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 23701b of the Revenue and Taxation Code is repealed.

SEC. 2. Section 23701b is added to the Revenue and Taxation Code, to read:

23701b. A fraternal order described in Section 501(c)(8) of the Internal Revenue Code.

SEC. 3. Section 23701c of the Revenue and Taxation Code is repealed.

SEC. 4. Section 23701c is added to the Revenue and Taxation Code, to read:

23701c. A cemetery company described in Section 501(c)(13) of the Internal Revenue Code.

SEC. 5. Section 23701e of the Revenue and Taxation Code is repealed.

SEC. 6. Section 23701e is added to the Revenue and Taxation Code, to read:

23701e. A business league, chamber of commerce, real estate board, or a board of trade described in Section 501(c)(6) of the Internal Revenue Code, except that the phrase ''or professional football leagues (whether or not administering a pension fund for football players)'' shall not apply.

SEC. 7. Section 23701f of the Revenue and Taxation Code is repealed.

SEC. 8. Section 23701f is added to the Revenue and Taxation Code, to read:

23701f. (a) A civic league, social welfare organization, or local organization of employees described in Section 501(c)(4) of the Internal Revenue Code, except as otherwise provided.

(b) An organization is not organized exclusively for exempt purposes under Section 501(c)(4) of the Internal Revenue Code unless its assets are irrevocably dedicated to one or more purposes listed in Section 501(c)(4) of the Internal Revenue Code.

SEC. 9. Section 23701g of the Revenue and Taxation Code is repealed.

SEC. 10. Section 23701g is added to the Revenue and Taxation Code, to read:

23701g. A social organization described in Section 501(c)(7) of the Internal Revenue Code.

SEC. 11. Section 23701i of the Revenue and Taxation Code is repealed.

SEC. 12. Section 23701i is added to the Revenue and Taxation Code, to read:

23701i. A voluntary employees' beneficiary association described in Section 501(c)(9) of the Internal Revenue Code.

SEC. 13. Section 23701j of the Revenue and Taxation Code is repealed.

SEC. 14. Section 23701j is added to the Revenue and Taxation Code, to read:

23701j. A teacher's retirement fund association described in Section 501(c)(11) of the Internal Revenue Code.

SEC. 15. Section 23701l of the Revenue and Taxation Code is repealed.

SEC. 16. Section 23701*l* is added to the Revenue and Taxation Code, to read:

23701*l*. (a) A domestic fraternal society described in Section 501(c)(10) of the Internal Revenue Code, except as otherwise provided.

(b) For purposes of this section, the term ''domestic'' means created or organized in the United States or under the law of the United States or of any state or territory therein.

SEC. 17. Section 23701n of the Revenue and Taxation Code is repealed.

SEC. 18. Section 23701n is added to the Revenue and Taxation Code, to read:

23701n. (a) A supplemental unemployment compensation trust described in Section 501(c)(17) of the Internal Revenue Code, except as otherwise provided.

(b) The following references in Section 501(c)(17)(E) of the Internal Revenue Code shall be modified as follows:

(1) The phrase ''under Section 23701'' shall be substituted for the phrase ''under subsection (a).''

(2) The phrase ''Section 23701i'' shall be substituted for the phrase ''paragraph (9) of this subsection.''

SEC. 19. Section 23701s of the Revenue and Taxation Code is repealed.

SEC. 20. Section 23701s is added to the Revenue and Taxation Code, to read:

23701s. (a) An employee-funded pension trust described in Section 501(c)(18) of the Internal Revenue Code, except as otherwise provided.

(b) The last sentence in Section 501(c)(18) of the Internal Revenue Code, relating to excess contributions under Section 4979, shall not apply.

SEC. 21. Section 23702 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 23702 is added to the Revenue and Taxation Code, to read:

23702. Section 502 of the Internal Revenue Code, relating to feeder organizations, shall apply, except as otherwise provided.

(a) Exemption shall not be allowed to any organization on the basis that all of its profits are payable to another organization exempt from taxation under either Section 501 of the Internal Revenue Code or this article, if that business activity is being conducted by a separate organization.

(b) The reference to Section 501 of the Internal Revenue Code, relating to exemption, shall be modified to refer to Section 23701.

(c) The reference to Sections 512 and 512(b)(3) of the Internal Revenue Code, relating to the exclusion of the deriving of rents from the definition of ''trade or business,'' shall be modified to refer to Section 23732.

SEC. 23. Section 23704 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 23704 is added to the Revenue and Taxation Code, to read:

23704. Section 501(e) of the Internal Revenue Code, relating to cooperative hospital service organizations, shall apply, except as otherwise provided.

(a) References to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(b) References to Section 501(a) of the Internal Revenue Code, relating to exemptions, shall be modified to refer to Section 23701.

(c) The services which may be provided under Section 501(e)(1) of the Internal Revenue Code shall include laundry services.

(d) Section 501(e)(1)(B)(iii) of the Internal Revenue Code is modified by substituting the phrase ''owned and operated by the United States, the State, or a county or political subdivision thereof, or an agency or instrumentality of any of the foregoing'' for the phrase ''owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an agency or instrumentality of any of the foregoing.''

(e) References to Section 170(b)(1)(A)(iii) of the Internal Revenue Code, relating to the deductibility of contributions to hospitals, shall be modified to refer to subdivision (e) of Section 23736.

SEC. 25. Section 23704.3 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 23704.3 is added to the Revenue and Taxation Code, to read:

23704.3. Section 501(o) of the Internal Revenue Code, relating to treatment of hospitals participating in provider-sponsored organizations, shall apply, except that the reference to Section 501(c)(3)

of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

SEC. 27. Section 23704.4 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 23704.4 is added to the Revenue and Taxation Code, to read:

23704.4. Section 501(k) of the Internal Revenue Code, relating to the treatment of certain organizations providing care of children, shall apply, except as otherwise provided.

(a) The reference to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(b) The reference to Section 2522(a)(2) of the Internal Revenue Code, relating to the computation of taxable gifts or Internal Revenue Code Section 2055, relating to transfers for pubic, charitable, and religious uses, shall not apply.

SEC. 29. Section 23704.5 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 23704.5 is added to the Revenue and Taxation Code, to read:

23704.5. Section 501(h) of the Internal Revenue Code, relating to expenditures by public charities engaged in activities to influence legislation, shall apply, except as otherwise provided.

(a) The reference to Section 501(a) of the Internal Revenue Code, relating to exemption from taxation, shall be modified to refer to Section 23701.

(b) The reference to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

SEC. 31. Section 23704.6 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 23704.6 is added to the Revenue and Taxation Code, to read:

23704.6. Section 504 of the Internal Revenue Code, relating to status after organization ceases to qualify for exemption under Section 501(c)(3) because of substantial lobbying or because of political activities, shall apply, except as otherwise provided.

(a) The reference to Section 501(a) of the Internal Revenue Code, relating to exemption from taxation, shall be modified to refer to Section 23701.

(b) The reference to Section 501a(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(c) The reference to Section 501(c)(4) of the Internal Revenue Code, relating to civic leagues, social welfare organizations, and local associations of employees, shall be modified to refer to Section 23701f.

SEC. 33. Section 23740 of the Revenue and Taxation Code is repealed.

SEC. 34. Section 23740 is added to the Revenue and Taxation Code, to read:

23740. Section 4911 of the Internal Revenue Code, relating to tax on excess expenditures to influence legislation, shall apply, except as otherwise provided.

(a) Section 4911(a)(1) of the Internal Revenue Code shall not apply.

(b) Section 4911(f)(4)(A) of the Internal Revenue Code shall include efforts to influence legislation with respect to acts, bills, resolutions, or similar items by the State Legislature.

SEC. 35. Section 23772 of the Revenue and Taxation Code is amended to read:

23772. (a) For the purposes of this part—

(1) Except as provided in paragraph (2) every organization exempt from taxation under Section 23701 and every trust treated as a private foundation because of Section 4947(a)(1) of the Internal Revenue Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the laws under this part as the Franchise Tax Board may by rules or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Franchise Tax Board may from time to time prescribe. The return shall be filed on or before the 15th day of the fifth full calendar month following the close of the income year.

(2) Exceptions from filing—

(A) Mandatory exceptions—Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or association of churches,

(ii) Any organization (other than a private foundation as defined in Section 23709), the gross receipts of which in each taxable year are normally not more than twenty-five thousand dollars ($25,000), or

(iii) The exclusively religious activities of any religious order,

(B) Discretionary exceptions—The Franchise Tax Board may permit the filing of a simplified return for organizations based on either gross receipts or total assets or both gross receipts and total assets, or may permit the filing of an information statement (without fee), or may permit the filing of a group return for incorporated or unincorporated branches of a state or national organization where it determines that an information return is not necessary to the efficient administration of this part.

(3) An organization that is required to file an annual information return shall pay a filing fee of ten dollars ($10) on or before the due date for filing the annual information return (determined with regard to any extension of time for filing the return) required by this section. In case of failure to pay the fee on or before such due date unless it is shown that such failure is due to reasonable cause, the filing fee shall be twenty-five dollars ($25). All collection remedies provided in Article 5 (commencing with Section 18661) of Chapter 2 of Part 10.2 shall be applicable to collection of the filing fee. However, the filing fee shall not apply to the organization described in paragraph (4).

(4) Paragraph (3) shall not apply to: (A) a religious organization exempt under Section 23701d; (B) an educational organization exempt under Section 23701d, if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; (C) a charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under Section 23701d, if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public; (D) an organization exempt under Section 23701d, if such organization is operated, supervised, or controlled by or in connection with a religious organization described in subparagraph (A).

(b) Every organization described in Section 23701d which is subject to the requirements of subdivision (a) shall furnish annually information, at such time and in such manner as the Franchise Tax Board may by rules or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation manager (within the meaning of Section 4946 of the Internal Revenue Code) and highly compensated employees,

(7) The compensation and other payments made during the year to each individual described in paragraph (6),

(8) In the case of an organization with respect to which an election under Section 23704.5 is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) The lobbying expenditures (as defined in Section 4911(c)(1) of the Internal Revenue Code).

(B) The lobbying nontaxable amount (as defined in Section 4911(c)(2) of the Internal Revenue Code).

(C) The grassroots expenditures (as defined in Section 4911(c)(3) of the Internal Revenue Code).

(D) The grassroots nontaxable amount (as defined in Section 4911(c)(4) of the Internal Revenue Code). For purposes of this paragraph, if Section 23740(f) applies to the organization for the taxable year, the organization shall furnish the amounts with respect to the affiliated group as well as with respect to the organization.

(9) Such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in Sections 23701a to 23701w, inclusive (other than Sections 23701d, 23701k, and 23701t), as the Franchise Tax Board may require to prevent either of the following:

(A) Diversion of funds from the organization's exempt purpose.

(B) Misallocation of revenue or expense, and

(10) Any other relevant information as the Franchise Tax Board may prescribe.

(c) In addition to the above annual return any organization which is required to file an annual report under Section 6056 of the Internal Revenue Code will furnish a copy of the report to the Franchise Tax Board at the time the annual return is due.

(d) For the purposes of this part—

(1) In the case of a failure to file a return required under this section on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the exempt organization or trust failing so to file, five dollars ($5) for each month or part thereof during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed forty dollars ($40).

(2) The Franchise Tax Board may make written demand upon a private foundation failing to file under paragraph (1) of this subdivision or subdivision (c) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing so to file, in addition to the penalty prescribed in paragraph (1), a penalty of five dollars ($5) each month or part thereof after the expiration of the time specified in the written demand during which such failure continues, but

the total amount imposed hereunder on all persons for such failure to file shall not exceed twenty-five dollars ($25). If more than one person is liable under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term ''person'' as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(e) The reporting requirements and penalties shall be applicable for income years beginning after December 31, 1970, except that the provisions of subparagraph (B) of paragraph (2) of subdivision (a) shall apply to income years ending after December 31, 1970.

CHAPTER 253

An act to add Chapter 6.1 (commencing with Section 10550) to Division 12 of the Streets and Highways Code, relating to streets.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Chapter 6.1 (commencing with Section 10550) is added to Division 12 of the Streets and Highways Code, to read:

CHAPTER 6.1. LOAN REPAYMENT ASSESSMENT DISTRICTS

10550. (a) If a municipality has entered into a contract with the state that includes a loan funded by the state for the purpose of financing the construction and installation of water or sewer system improvements in or along its streets that are of special benefit to land within the municipality, the municipality may conduct proceedings under this division for the formation of an assessment district for the purpose of levying an assessment to secure repayment of the loan.

(b) Except as otherwise provided in this chapter, the proceeding for the formation of the assessment district and the levy of the assessment shall be conducted in accordance with this division, with appropriate modifications to all resolutions and notices.

10555. The legislative body shall provide in the resolutions required under Sections 10200 and 10312 that the assessment will be collected in annual installments.

CHAPTER 254

An act to amend Section 12028.5 of the Penal Code, and to amend Section 8102 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. 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 30 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 60 days of the date of seizure of the firearm.

(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. 2. Section 8102 of the Welfare and Institutions Code is amended to read:

8102. (a) Whenever a person, who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

''Deadly weapon,'' as used in this section, has the meaning prescribed by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

Where the person is released, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

(c) Upon the release of a person as described in subdivision (b), the confiscating law enforcement agency shall have 30 days to initiate a petition in the superior court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to send a notice advising the person of his or her right to a hearing on this issue. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 60 days of the release of the person from a health facility.

(d) If the law enforcement agency does not initiate proceedings within the 30-day period, or the period of time authorized by the court in an ex parte order issues pursuant to subdivision (c), it shall make the weapon available for return.

(e) The law enforcement agency shall inform the person that he or she has 30 days to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond will result in a default order forfeiting the confiscated firearm or weapon. For the purpose of this subdivision, the person's last known address shall be the address provided to the law enforcement officer by the person at the time of the person's detention or apprehension.

(f) If the person responds and requests a hearing, the court clerk shall set a hearing, no later than 30 days from receipt of the request. The court clerk shall notify the person and the district attorney of the date, time, and place of the hearing.

(g) If the person does not respond within 30 days of the notice, the law enforcement agency may file a petition for order of default.

CHAPTER 255

An act to amend Section 4013 of the Insurance Code, relating to insurance.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 4013 of the Insurance Code is amended to read:

4013. (a) Each policyholder of a domestic mutual insurer, other than the holder of a reinsurance contract, is a member of the insurer during the policy period, as defined in the policy or the declarations page

of the policy, with all rights and obligations of that membership, and the policy shall so specify.

(b) A ''tail'' or extended reporting policy or endorsement permitting claims to be reported after the expiration or termination of the policy period shall not extend the policy period of a ''claims made'' policy and all rights and obligations of membership shall cease upon the expiration or termination of the policy period. If an insurer has allowed or does allow, by contract, conduct, or otherwise, the holder of a ''tail'' or extended reporting policy or endorsement to have privileges, in whole or in part, identical, or similar to some or all of the rights of membership, the holder is nevertheless not deemed a member.

(c) Subdivision (b) and the modifications to subdivision (a) made by the act adding this subdivision, are declaratory of existing law and do not affect any existing contract rights.

CHAPTER 256

An act to amend Sections 6066, 6366, 6366.1, 6452, 6479.31, and 6480.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 6066 of the Revenue and Taxation Code is amended to read:

6066. (a) Every person desiring to engage in or conduct business as a seller within this state shall file with the board an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the board may require. An application for a permit shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(b) An application filed pursuant to this section may be filed using electronic media as prescribed by the board.

(c) Electronic media includes but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

SEC. 2. Section 6366 of the Revenue and Taxation Code is amended to read:

6366. (a) 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, the following:

(1) Aircraft sold to any person using the aircraft as a common carrier of persons or property under authority of the laws of this state, of the United States, or of any foreign government, or sold to any foreign government for use by that government outside of this state, or sold to any person who is not a resident of this state and who will not use that aircraft in this state otherwise than in the removal of the aircraft from this state.

(2) (A) A ground control station sold to any foreign government for use by that government outside of this state or sold to any person who is not a resident of this state and who will not use that ground control station in this state otherwise than in the removal of the ground control station from this state.

(B) A ''ground control station'' means a portable facility used to operate aircraft in the air without a pilot on board. The term includes controls, video equipment, computers, generators, and communications equipment, sold as an integral part of the station, and antennas used to control the aircraft. The term does not include trucks, tractor-trailers, or other devices solely used to transport the station.

(3) Tangible personal property that is purchased on or after October 1, 1996, and becomes a component part of any aircraft described in paragraph (1), as a result of the maintenance, repair, overhaul, or improvement of that aircraft in compliance with Federal Aviation Administration requirements, and any charges made for labor and services rendered with respect to that maintenance, repair, overhaul, or improvement.

(b) With respect to aircraft sold on or after January 1, 1997, it shall be presumed that a person is not engaged in business as a common carrier if the person's yearly gross receipts from the use of the aircraft as a common carrier do not exceed 20 percent of the purchase cost of the aircraft to him or her, or fifty thousand dollars ($50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the person is engaged in business as a common carrier.

In no event shall "gross receipts'' include compensation by the person or related parties for use of the aircraft as a common carrier.

SEC. 3. Section 6366.1 of the Revenue and Taxation Code is amended to read:

6366.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of aircraft which are leased, or are sold to persons for the purpose of leasing, to lessees using such aircraft as

common carriers of persons or property under authority of the laws of this state, of the United States or any foreign government, or to any foreign government as lessees for use by such government outside the state, or to persons as lessees who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.

(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property sold to an aircraft manufacturer and incorporated into aircraft to be leased by the manufacturer under conditions set forth in subdivision (a) of this section.

(c) With respect to aircraft leased, or sold for the purpose of leasing, on or after January 1, 1997, it shall be presumed that the aircraft is not regularly used in the business of transporting for hire property or persons if the lessor's yearly gross receipts from the lease of that aircraft to persons using the aircraft as common carriers of property or persons do not exceed 20 percent of the cost of the aircraft to the lessor, or fifty thousand dollars ($50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the aircraft is regularly used as a common carrier of property or persons.

In no event shall ''gross receipts'' include compensation by the lessor or related parties for use of the aircraft as a common carrier.

SEC. 4. Section 6452 of the Revenue and Taxation Code is amended to read:

6452. (a) On or before the last day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in the form as prescribed by the board, which may include, but not be limited to, electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

(b) For purposes of the sales tax, a return shall be filed by every seller and also by every person who is liable for the sales tax under this part. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.

(c) Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 5. Section 6479.31 of the Revenue and Taxation Code is amended to read:

6479.31. (a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic media shall be filed and authenticated pursuant to any method or form the board may prescribe.

(b) Notwithstanding any other law, any return, declaration, statement, or other document otherwise required to be signed that is filed by the taxpayer using electronic media in a form as required by the board shall be deemed to be a signed, valid original document, including upon reproduction to paper form by the board.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

SEC. 6. Section 6480.1 of the Revenue and Taxation Code is amended to read:

6480.1. (a) After service of written notification by the board, on any distribution in this state of motor vehicle fuel subject to the motor vehicle fuel license tax, the distributor shall collect prepayment of retail sales tax from the person to whom the motor vehicle fuel is distributed. The prepayment required to be collected by the distributor constitutes a debt owed by the distributor to this state until paid to the board, until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the retail sales tax to the board, or until a distributor or broker who has consumed the fuel has paid the use tax to the board. Each distributor shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is distributed. On each subsequent distribution of that motor vehicle fuel, each seller, other than the retailer, shall collect from his or her purchaser a prepayment computed using the rate applicable at the time of distribution. Each distributor shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts which shall be separately stated thereon.

(b) After service of written notification by the board, the broker shall collect prepayment of the retail sales tax from the person to whom the motor vehicle fuel is transferred. The prepayment required to be collected by the broker constitutes a debt owed by the broker to the state until paid to the board, or until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the tax to the board. Each broker shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts which shall be separately stated thereon.

Each broker shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is distributed. The amount of prepayment paid by the broker to his or her vendor shall constitute a credit against the amount of prepayment required to be collected and remitted by the broker to the board.

(c) A distributor or broker who pays the prepayment and issues a resale certificate to the seller, but subsequently consumes the fuel, shall be entitled to a credit against his or her sales and use taxes due and payable for the period in which the prepayment was made, provided that he or she reports and pays the use tax to the board on the consumption of that fuel.

(d) The amount of a prepayment paid by the retailer or a distributor or broker who has consumed the fuel to the seller from whom he or she acquired the fuel shall constitute a credit against his or her sales and use taxes due and payable for the period in which the distribution was made. Failure of the distributor or broker to report prepayments or the distributor's or broker's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, distributor, or broker, either on a temporary or permanent basis or otherwise. The retailer, distributor, or broker shall be entitled to the credit to the extent of the amount prepaid to his or her supplier as evidenced by purchase documents, invoices, or receipts stating separately the amount of tax prepayment.

(e) The rate of the prepayment required to be collected during the period from July 1, 1986, through March 31, 1987, shall be four cents ($0.04) per gallon of motor vehicle fuel distributed or transferred.

(f) On April 1 of each succeeding year, the rate per gallon, rounded to the nearest one-half of one cent, of the required prepayment shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, and 7202, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales tax) as determined by the State Energy Resources Conservation and Development Commission, in its latest publication of the ''Quarterly Oil Report,'' of all grades of gasoline sold through a self-service gasoline station. In the event the ''Quarterly Oil Report'' is delayed or discontinued, the board may base its determination on other sources of the arithmetic average selling price of gasoline. The board shall make its determination of the rate no later than November 1 of the year prior to the effective date of the new rate. Immediately upon making its determination and setting of the rate, the board shall each year, no later than January 1, notify by mail every distributor, broker, and retailer of motor vehicle fuel. In the event the price of fuel decreases or increases, and the established rate results in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(g) (1) Notwithstanding any other provision of this section, motor vehicle fuel sold by a distributor or broker to a qualified purchaser who, pursuant to a contract with the State of California or its instrumentalities,

resells that fuel to the State of California or its instrumentalities shall be exempt from the prepayment requirements.

(2) A qualified purchaser who acquires motor vehicle fuel for subsequent resale to the State of California or its instrumentalities pursuant to this subdivision shall furnish to the distributor or broker from whom the fuel is acquired an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe. The distributor or broker shall retain the certificate in his or her records in support of the exemption. To qualify for the prepayment exemption, both of the following conditions shall apply:

(A) The qualified purchaser does not take possession of the fuel at any time.

(B) The fuel is delivered into storage tanks owned or leased by the State of California or its instrumentalities via facilities of the distributor or broker, or by common or contract carriers under contract with the distributor or broker.

(3) For purposes of this subdivision, ''qualified purchaser'' means a broker as defined in Section 7308 who does not have or maintain a storage facility or facilities for the purpose of selling motor vehicle fuel.

CHAPTER 257

An act to amend Sections 1363 and 1368 of the Civil Code, relating to common interest developments.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 1363 of the Civil Code is amended to read:

1363. (a) A common interest development shall be managed by an association which may be incorporated or unincorporated. The association may be referred to as a community association.

(b) An association, whether incorporated or unincorporated, shall prepare a budget pursuant to Section 1365 and disclose information, if requested, in accordance with Section 1368.

(c) Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a

corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code.

The association, whether incorporated or unincorporated, may exercise the powers granted to an association by Section 383 of the Code of Civil Procedure and the powers granted to the association in this title.

(d) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the association may adopt.

(e) Notwithstanding any other provision of law, notice of meetings of the members shall specify those matters the board intends to present for action by the members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action.

(f) Members of the association shall have access to association records in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations Code.

(g) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents or rules of the association, including any monetary penalty relating to the activities of a guest or invitee of a member, the board of directors shall adopt and distribute to each member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents. The board of directors shall not be required to distribute any additional schedules of monetary penalties unless there are changes from the schedule that was adopted and distributed to the members pursuant to this subdivision. The board of directors of the association shall meet in executive session if requested by the member being disciplined, and the member shall be entitled to attend the executive session.

(h) When the board of directors is to meet to consider or impose discipline upon a member, the board shall notify the member in writing, by either personal delivery or first-class mail, at least 15 days prior to the meeting. The notification shall contain, at a minimum, the date, time and place of the meeting, the nature of the alleged violation for which a member may be disciplined, and a statement that the member has a right to attend and may address the board at the meeting. If the board imposes discipline on a member, the board shall provide a notification of the disciplinary action by either personal delivery or first-class mail to the member within 10 days following the action. A disciplinary action shall not be effective against a member unless the board fulfills the requirements of this subdivision.

(i) Whenever two or more associations have consolidated any of their functions under a joint neighborhood association or similar

organization, members of each participating association shall be entitled to attend all meetings of the joint association other than executive sessions, (1) shall be given reasonable opportunity for participation in those meetings and (2) shall be entitled to the same access to the joint association's records as they are to the participating association's records.

(j) Nothing in this section shall be construed to create, expand, or reduce the authority of the board of directors of an association to impose monetary penalties on an association member for a violation of the governing documents or rules of the association.

SEC. 2. Section 1368 of the Civil Code is amended to read:

1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent documents distributed pursuant to Section 1365.

(4) A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(5) A copy or a summary of any notice previously sent to the owner pursuant to subdivision (h) of Section 1363 that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the association's right to enforce the governing documents against the owner or the prospective purchaser of the separate interest with respect to any

violation. This paragraph shall not be construed to require an association to inspect an owner's separate interest.

(6) A copy of the preliminary list of defects provided to each member of the association pursuant to Section 1375, unless the association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the association complies with Section 1375.1. Disclosure of the preliminary list of defects pursuant to this paragraph shall not waive any privilege attached to the document. The preliminary list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made.

(7) A copy of the latest information provided for in Section 1375.1.

(8) Any change in the association's current regular and special assessments and fees which have been approved by the association's board of directors, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1) to (8), inclusive, of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) An association shall not impose or collect any assessment, penalty, or fee in connection with a transfer of title or any other interest except the association's actual costs to change its records and that authorized by subdivision (b).

(d) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars ($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorneys' fees.

(e) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(f) In addition to the requirements of this section, an owner transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

CHAPTER 258

An act to amend Section 1793.26 to the Civil Code, relating to vehicles.

[Approved by Governor August 25, 2000. Filed with
Secretary of State August 28, 2000.]

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

SECTION 1. Section 1793.26 of the Civil Code is amended to read:

1793.26. (a) Any automobile manufacturer, importer, distributor, dealer, or lienholder who reacquires, or who assists in reacquiring, a motor vehicle, whether by judgment, decree, arbitration award, settlement agreement, or voluntary agreement, is prohibited from doing either of the following:

(1) Requiring, as a condition of the reacquisition of the motor vehicle, that a buyer or lessee who is a resident of this state agree not to disclose the problems with the vehicle experienced by the buyer or lessee or the nonfinancial terms of the reacquisition.

(2) Including, in any release or other agreement, whether prepared by the manufacturer, importer, distributor, dealer, or lienholder, for signature by the buyer or lessee, a confidentiality clause, gag clause, or similar clause prohibiting the buyer or lessee from disclosing information to anyone about the problems with the vehicle, or the nonfinancial terms of the reacquisition of the vehicle by the manufacturer, importer, distributor, dealer, or lienholder.

(b) Any confidentiality clause, gag clause, or similar clause in such a release or other agreement in violation of this section shall be null and void as against the public policy of this state.

(c) Nothing in this section is intended to prevent any confidentiality clause, gag clause, or similar clause regarding the financial terms of the reacquisition of the vehicle.

CHAPTER 259

An act to amend Sections 18251 and 18254 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 25, 2000. Filed with
Secretary of State August 28, 2000.]

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

SECTION 1. Section 18251 of the Welfare and Institutions Code is amended to read:

18251. As used in this chapter:

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

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

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

(1) A child who has been adjudicated as either a dependent or ward of the juvenile court pursuant to Section 300, 601, or 602 and who would be placed in a group home licensed by the department at a rate classification level of 10 or higher.

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

(3) A child who is currently, or who would be, placed in a group home licensed by the department at a rate classification level of 10 or higher.

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

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

SEC. 2. Section 18254 of the Welfare and Institutions Code is amended to read:

18254. (a) Reimbursement rates for wraparound services, under this pilot project, shall be based on the following factors:

(1) The average cost of rate classification 10 to 11 in each county, minus the cost of any concurrent out-of-home placement, for children who are or would be placed in a rate level 10 or 11 group home.

(2) The average cost of rate classification 12 to 14 in each county, minus the cost of any concurrent out-of-home placement, for children who are or would be placed in a rate level 12 to 14 group home.

(b) The annual maximum limit on funding available for the pilot project authorized by this chapter shall be based on the average cost, determined pursuant to subdivision (a), for the number of service allocation slots assigned to each county.

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

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

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

CHAPTER 260

An act to amend Section 14310 of the Elections Code, relating to elections.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

SECTION 1. Section 14310 of the Elections Code is amended to read:

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for absentee ballots, and shall be completed in the same manner as absentee envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected.

A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

(3) A precinct board member shall notify the voter of the contents of this subdivision at the time of receiving the provisional ballot of the voter.

(4) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official, provided the ballot cast by the voter contained only the candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct.

(d) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(e) This section shall apply to any absent voter described by Section 3015 who is unable to surrender his or her unvoted absent voter's ballot.

(f) Any existing supply of envelopes marked ''special challenged ballot'' may be used until the supply is exhausted.

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 261

An act to amend Section 2225 of the Civil Code, relating to property of felons.

[Approved by Governor August 25, 2000. Filed with Secretary of State August 28, 2000.]

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

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

(a) Victims of crime have a special relationship to the profits from the sale of personal belongings and memorabilia of a convicted felon whose criminal actions and resulting notoriety enhance the value of those belongings and memorabilia.

(b) The state has a compelling interest in ensuring that convicted felons do not profit from their crimes and that victims of crime are compensated by those who harm them.

(c) The offer for sale and sale of a convicted felon's personal belongings and memorabilia bring renewed grief and suffering to victims of crime and their family members.

(d) The offer for sale and sale of a convicted felon's personal belongings and memorabilia also bring renewed notoriety to the felon and the crime for which he or she was convicted, which notoriety may encourage criminal acts by others.

(e) The state's compelling interest in ensuring that convicted felons do not profit from their crimes while their victims are not compensated, in protecting crime victims and their families from renewed grief and suffering, and in limiting the risk of crimes that may result from the renewed notoriety of the convicted felon and his or her crime, outweigh the interest of the felon, the felon's representatives, or others to profit from the sale of the felon's personal belongings or memorabilia.

SEC. 2. Section 2225 of the Civil Code is amended to read:

2225. (a) As used in this section:

(1) ''Convicted felon'' means any person convicted of a felony, or found not guilty by reason of insanity of a felony committed in California, either by a court or jury trial or by entry of a plea in court.

(2) ''Felony'' means a felony defined by any California or United States statute.

(3) (A) ''Representative of the felon'' means any person or entity receiving proceeds or profits by designation of that felon, on behalf of that felon, or in the stead of that felon, whether by the felon's designation or by operation of law.

(B) ''Profiteer of the felony'' means any person who sells or transfers for profit any memorabilia or other property or thing of the felon, the value of which is enhanced by the notoriety gained from the commission of the felony for which the felon was convicted. This subparagraph shall not apply to any media entity reporting on the felon's story or on the sale of the materials, memorabilia, or other property or thing of the felon. Nor shall it apply to the sale of the materials, as the term is defined in paragraph (6), where the seller is exercising his or her first amendment rights. This subparagraph also shall not apply to the sale or transfer by

a profiteer of any other expressive work protected by the First Amendment unless the sale or transfer is primarily for a commercial or speculative purpose.

(4) (A) ''Beneficiary'' means a person who, under applicable law, other than the provisions of this section, has or had a right to recover damages from the convicted felon for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) If a beneficiary described in subparagraph (A) has died, ''beneficiary'' also includes a person or estate entitled to recover damages pursuant to Chapter 4 (commencing with Section 377.10) of Title 3 of Part 2 of the Code of Civil Procedure.

(C) If a person has died and the death was proximately caused by the convicted felon as a result of the crime for which the felon was convicted, ''beneficiary'' also includes a person described in Section 377.60 of the Code of Civil Procedure and any beneficiary of a will of the decedent who had a right under that will to receive more than 25 percent of the value of the estate of the decedent.

(5) ''Beneficiary's interest'' means that portion of the proceeds or profits necessary to pay the following:

(A) In the case of a beneficiary described in subparagraph (A) or (B) of paragraph (4), those damages that, under applicable law, other than the provisions of this section, the beneficiary has or had a right to recover from the convicted felon for injuries proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) In the case of a beneficiary described in subparagraph (C) of paragraph (4), those damages that, under all the circumstances of the case, may be just.

(C) A beneficiary's interest shall be reduced by the following amount:

(i) Money paid to the beneficiary from the Restitution Fund because of the crime for which the felon was convicted.

(ii) Money paid to the beneficiary by the convicted felon because of a requirement of restitution imposed by a court in connection with the crime for which the felon was convicted.

(iii) Money paid to the beneficiary because of a judgment against the convicted felon based upon the crime for which the felon was convicted.

(D) In the case of an unsatisfied existing judgment or order of restitution against the convicted felon and in favor of a beneficiary, any money paid to the beneficiary pursuant to this section shall be applied to reduce the amount of the unsatisfied judgment or order.

(6) ''Materials'' means books, magazine or newspaper articles, movies, films, videotapes, sound recordings, interviews or appearances on television and radio stations, and live presentations of any kind.

(7) ''Story'' means a depiction, portrayal, or reenactment of a felony and shall not be taken to mean a passing mention of the felony, as in a footnote or bibliography.

(8) ''Sale'' includes lease, license, or any other transfer or alienation taking place in California or elsewhere.

(9) ''Proceeds'' means all fees, royalties, real property, or other consideration of any and every kind or nature received by or owing to a felon or his or her representatives for the preparation for the purpose of sale of materials, for the sale of the rights to materials, or the sale or distribution by the convicted felon of materials whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

(10) ''Profits'' means all income from anything sold or transferred by the felon, a representative of the felon, or a profiteer of the felony, including any right, the value of which thing or right is enhanced by the notoriety gained from the commission of a felony for which a convicted felon was convicted. This income may have been accrued, earned, or paid before or after the conviction. However, voluntary donations or contributions to a defendant to assist in the defense of criminal charges shall not be deemed to be ''profits,'' provided the donation or contribution to that defense is not given in exchange for some material of value.

(b) (1) All proceeds from the preparation for the purpose of sale, the sale of the rights to, or the sale of materials that include or are based on the story of a felony for which a convicted felon was convicted, shall be subject to an involuntary trust for the benefit of the beneficiaries set forth in this section. That trust shall continue until five years after the time of payment of the proceeds to the felon or five years after the date of conviction, whichever is later. If an action is filed by a beneficiary to recover his or her interest in a trust within those time limitations, the trust character of the property shall continue until the conclusion of the action. At the end of the five-year trust period, any proceeds that remain in trust that have not been claimed by a beneficiary shall be transferred to the Controller, to be allocated to the Restitution Fund for the payment of claims pursuant to Section 13969 of the Government Code.

(2) All profits shall be subject to an involuntary trust for the benefit of the beneficiaries set forth in this section. That trust shall continue until five years after the time of payment of the profits to the felon or five years after the date of conviction, whichever is later. If an action is filed by a beneficiary to recover his or her interest in a trust within those time limitations, the trust character of the property shall continue until the conclusion of the action. At the end of the five-year trust period, any profits that remain in trust that have not been claimed by a beneficiary

shall be transferred to the Controller, to be allocated to the Restitution Fund for the payment of claims pursuant to Section 13969 of the Government Code.

(3) Notwithstanding paragraph (2), in the case of a sale or transfer by a profiteer of the felony, the court in an action under subdivision (c) shall, upon an adequate showing by the profiteer of the felony, exclude from the involuntary trust that portion of the profits that represents the inherent value of the memorabilia, property, or thing sold or transferred and exclusive of the amount of the enhancement to the value due to the notoriety of the convicted felon.

(c) (1) Any beneficiary may bring an action against a convicted felon, representative of the felon, or a profiteer of a felony to recover his or her interest in the trust established by this section.

(2) That action may be brought in the superior court of the county in which the beneficiary resides, or of the county in which the convicted felon resides, or of the county in which proceeds or profits are located.

(3) If the court determines that a beneficiary is entitled to proceeds or profits pursuant to this section, the court shall order the payment from proceeds or profits that have been received, and, if that is insufficient, from proceeds or profits that may be received in the future.

(d) If there are two or more beneficiaries and if the available proceeds or profits are insufficient to pay all beneficiaries, the proceeds or profits shall be equitably apportioned among the beneficiaries taking into account the impact of the crime upon them.

Prior to any distribution of any proceeds to a beneficiary, the court shall determine whether the convicted felon has failed to pay any portion of a restitution fine or penalty fine imposed by a court, or any restitution imposed as a condition of probation. The court shall also determine whether the felon is obligated to reimburse a governmental entity for the costs of his or her defense and whether a portion of the proceeds is needed to cover his or her reasonable attorney's fees incurred in the criminal proceeding related to the felony, or any appeal or other related proceeding, or in the defense of the action brought under this section. The court shall order payment of these obligations prior to any payment to a beneficiary, except that 60 percent of the proceeds or profits shall be reserved for payment to the beneficiaries.

(e) (1) The Attorney General may bring an action to require proceeds or profits received by a convicted felon to be held in an express trust in a bank authorized to act as a trustee.

(2) An action may be brought under this subdivision within one year after the receipt of proceeds or profits by a convicted felon or one year after the date of conviction, whichever is later.

That action may be brought in the superior court of any county in which the Attorney General has an office.

(3) If the Attorney General proves that the proceeds or profits are proceeds or profits from the sale of a story or thing of value that are subject to an involuntary trust pursuant to this section, and that it is more probable than not that there are beneficiaries within the meaning of this section, the court shall order that all proceeds or profits be deposited in a bank and held by the bank as trustee of the trust until an order of disposition is made by a court pursuant to subdivision (d), or until the expiration of the period specified in subdivision (b).

(4) If the Attorney General prevails in an action under this subdivision, the court shall order the payment from the proceeds or profits to the Attorney General of reasonable costs and attorney's fees.

(f) (1) In any action brought pursuant to this section, upon motion of a party the court shall grant a preliminary injunction to prevent any waste of proceeds or profits if it appears that the proceeds or profits are subject to the provisions of this section, and that they may be subject to waste.

(2) Upon motion of the Attorney General or any potential beneficiary, the court shall grant a preliminary injunction against a person against whom an indictment or information for a felony has been filed in superior court to prevent any waste of proceeds or profits if there is probable cause to believe that the proceeds or profits would be subject to an involuntary trust pursuant to this section upon conviction of this person, and that they may be subject to waste.

(g) Any violation of an order of a court made pursuant to this section shall be punishable as contempt.

(h) The remedies provided by this section are in addition to other remedies provided by law.

No period of limitations, except those provided by this section, shall limit the right of recovery under this section.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

CHAPTER 262

An act to amend Section 6253 of the Food and Agricultural Code, to amend Sections 50061.5, 50063, 50064, 50067, 50068.5, 50078.4, 50078.6, 50593, 50606, 50624, 54716, and 61712 of, to repeal Sections 50064.5, 50065, 50065.5, 50066.5, 50078.8, 50078.10, 50078.12, 50078.14, 50078.15, 50595, 50598, 50599, 50600, 50601, 50602, 50625, and 54717 of, the Government Code, to amend Section 2291.2 of the Health and Safety Code, to amend Section 26569.4 of, and to add

Section 26653.5 to, the Public Resources Code, to amend Sections 11302, 11303, 11307, 11308, 11501, 11502, 18070, 18074, 18075, 18076, 18343, 18362, 18663, 22090, 22092, 22096, 22525, 22556, 22588, 22593, 22624, 22626, 22629, and 22630.5 of, and to repeal Sections 18363, 22525.5, 22589, and 22590 of, the Streets and Highways Code, and to amend Section 12 of Chapter 354 of the Statutes of 1919, relating to local agency assessments.

[Approved by Governor August 29, 2000. Filed with Secretary of State August 30, 2000.]

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

SECTION 1. Section 6253 of the Food and Agricultural Code is amended to read:

6253. (a) The board shall, on or before the first Monday in April of each year, file with the board of supervisors a budget that sets forth all estimated expenditures of the district for the fiscal year commencing on the first day of July. A copy of the budget shall also, at the same time, be filed with the auditor of the county.

(b) The board of supervisors may, by ordinance or by resolution, adopted after notice and hearing, determine and levy an assessment for winegrape pest and disease control activities for any of the following purposes:

(1) Responding to, managing, and controlling the effects of the spread of the phylloxera pest and other pests that attack winegrape plants.

(2) Collecting and disseminating to winegrape producers in the district all relevant information and scientific studies concerning the pest or pests.

(3) Charting and determining the extent and location of any infestations.

(c) The annual assessment shall not exceed five dollars ($5) per planted acre.

(d) The board of supervisors shall cause to be prepared and filed with the clerk of the board of supervisors a written report that contains all of the following information:

(1) A description of each parcel of property proposed to be subject to the assessment.

(2) The amount of the assessment of each parcel for the initial fiscal year.

(3) The maximum amount of the assessment that may be levied for each parcel during any fiscal year.

(4) The duration of the assessment.

(5) The basis of the assessment.

(6) The schedule of the assessment.

(7) A description specifying the requirements for written and oral protests, and the protest threshold necessary for requiring abandonment of the proposed assessment pursuant to subdivision (f).

(e) (1) The board may establish zones or areas of benefit within the district, and may restrict the imposition of assessments to areas lying within one or more of the zones or areas of benefit established within the district.

(2) The assessment shall be levied on each parcel within the boundaries of the district, zone, or area of benefit.

(f) (1) The legislative body shall comply with the notice protest, and hearing procedures in Section 53753 of the Government Code.

(2) In addition, the mailed notice shall include the name of the district, the return address of the sender, the amount of the assessment for the initial fiscal year, the maximum amount of the assessment that may be levied during any fiscal year and the name and telephone number of the person designated by the board of supervisors to answer inquiries regarding the protest proceedings.

SEC. 2. Section 50061.5 of the Government Code is amended to read:

50061.5. (a) The legislative body of the local agency shall cause to be prepared and filed with the clerk of the local agency a written report which shall contain all of the following:

(1) Plans and specifications for the improvements.

(2) An estimate of the costs of the improvements.

(3) A diagram of the district and a description of each lot or parcel of property proposed to be subject to the assessment.

(4) The amount of the assessment for each lot or parcel for the initial fiscal year and the maximum amount of the assessment that may be levied for each lot or parcel during any fiscal year thereafter.

(5) The duration of the assessment.

(6) The basis of the assessment.

(7) The schedule of the assessment.

(8) A description specifying the requirements for the protest and hearing procedures referred to in Section 50063 necessary for imposing the proposed assessment.

(b) If the report proposes the levy of an assessment for more than one year to pay debt service on bonds or notes, or to pay for the maintenance of natural habitat, the report shall also contain both of the following:

(1) If bonds or notes will be issued pursuant to Section 50068, an estimate of their principal amount.

(2) A general description of the habitat maintenance program and a statement of the maximum costs of the maintenance program for each year of its expected duration.

SEC. 3. Section 50063 of the Government Code is amended to read:

50063. After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall do all of the following:

(a) Declare the intention of the legislative body to order the formation of a district, to levy and collect assessments, and, if desired, to issue bonds or notes, to provide for the long-term maintenance of natural habitat pursuant to this article.

(b) Generally describe the improvements.

(c) Refer to the proposed district by its distinctive designation and indicate the general location of the district.

(d) Refer to the report on file with the clerk of the local agency for a full and detailed description of the improvements, the boundaries of the district, any bonds or notes to be issued, any provisions for the long-term maintenance of natural habitat, and the proposed assessments upon assessable lots and parcels of land within the district.

(e) Give notice of, and fix a time and place for, a hearing by the legislative body on, among other things, the question of the formation of the district and the levy of the proposed assessment. The notice, protest, and hearing procedures shall comply with Section 53753.

SEC. 4. Section 50064 of the Government Code is amended to read:

50064. The clerk of the local agency shall cause notice of the filing of the report prepared pursuant to Section 50061.5, and of a time, date, and place of hearing pursuant to Section 50063.

SEC. 5. Section 50064.5 of the Government Code is repealed.

SEC. 6. Section 50065 of the Government Code is repealed.

SEC. 7. Section 50065.5 of the Government Code is repealed.

SEC. 8. Section 50066.5 of the Government Code is repealed.

SEC. 9. Section 50067 of the Government Code is amended to read:

50067. (a) If no majority protest exists pursuant to Section 53753, the legislative body may adopt a resolution ordering the improvements and the formation of the district and confirming the diagram and assessment, either as originally proposed by the legislative body or as changed by it. Except as provided in subdivision (b) or (c), the adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

(b) If bonds or notes are to be issued pursuant to Section 50068, the adoption of the resolution shall constitute the levy of an assessment for a principal amount which may be collected in annual installments. The clerk shall record a notice and map describing the assessment pursuant to Division 4.5 (commencing with Section 3100) of the Streets and Highways Code.

(c) If the district will finance a long-term natural habitat maintenance program, the adoption of the resolution constitutes the levy of a series

of annual assessments for each of several years to pay the costs of maintaining natural habitat pursuant to Section 50060.5. The clerk shall record a notice and map describing the assessments pursuant to Division 4.5 (commencing with Section 3100) of the Streets and Highways Code.

SEC. 10. Section 50068.5 of the Government Code is amended to read:

50068.5. The legislative body shall provide by resolution each year for the levy and collection of annual assessments to pay for the long-term maintenance of natural habitat pursuant to this article in the amounts previously authorized. The resolution shall include a diagram and assessment against each lot or parcel subject to assessment for those purposes. If the assessments are to be increased above the amount levied for the previous year, notice, protest, and hearing procedures shall comply with Section 53753. The levy and collection of assessments for those purposes may be coordinated with the levy and collection of assessments pursuant to any other provision of law in any manner that the legislative body determines to be necessary or convenient.

SEC. 11. Section 50078.4 of the Government Code is amended to read:

50078.4. The legislative body of the local agency shall cause to be prepared and filed with the clerk of the local agency a written report which shall contain all of the following:

(a) A description of each lot or parcel of property proposed to be subject to the assessment.

(b) The amount of the assessment for each lot or parcel for the initial fiscal year.

(c) The maximum amount of the assessment which may be levied for each lot or parcel during any fiscal year.

(d) The duration of the assessment.

(e) The basis of the assessment.

(f) The schedule of the assessment.

(g) A description specifying the requirements for protest and hearing procedures for the proposed assessment pursuant to Section 50078.6.

SEC. 12. Section 50078.6 of the Government Code is amended to read:

50078.6. The clerk of the local agency shall cause the notice, protest, and hearing procedures to comply with Section 53753. The mailed notice shall also contain the name and telephone number of the person designated by the legislative body to answer inquiries regarding the protest proceedings.

SEC. 13. Section 50078.8 of the Government Code is repealed.

SEC. 14. Section 50078.10 of the Government Code is repealed.

SEC. 15. Section 50078.12 of the Government Code is repealed.

SEC. 16. Section 50078.14 of the Government Code is repealed.

SEC. 17. Section 50078.15 of the Government Code is repealed.

SEC. 18. Section 50593 of the Government Code is amended to read:

50593. If the legislative body determines that the public interest and convenience require the formation of a district, it may adopt an ordinance declaring its intention to form a district pursuant to the provisions of this chapter. The ordinance of intention, in addition to making the foregoing determination, shall also contain:

(a) A general description of the exterior boundaries of the proposed district, as specified in Section 50594.

(b) A general description of the maintenance proposed to be done and the open areas to be maintained or conserved thereby.

(c) A statement that an annual assessment may be levied to pay the costs and expenses of the maintenance on the open areas.

(d) A statement that amounts so assessed shall be billed for and collected as a part of the regular tax bills.

(e) The day, hour and place for the hearing by the legislative body of protests and objections to the formation of the proposed district or to the proposed maintenance, and a statement that any owner of property liable to be assessed for the maintenance may make written protest against the proposed maintenance or against the formation of the proposed district or both by filing a written protest with the clerk at any time not later than the hour so fixed for the hearing. The time for the hearing shall not be less than 15 or more than 60 days from the date of the adoption by the legislative body of the ordinance. If new or increased assessments are proposed, the legislative body shall comply with the notice, hearing, and protest procedures in Section 53753.

SEC. 19. Section 50595 of the Government Code is repealed.

SEC. 20. Section 50598 of the Government Code is repealed.

SEC. 21. Section 50599 of the Government Code is repealed.

SEC. 22. Section 50600 of the Government Code is repealed.

SEC. 23. Section 50601 of the Government Code is repealed.

SEC. 24. Section 50602 of the Government Code is repealed.

SEC. 25. Section 50606 of the Government Code is amended to read:

50606. If the legislative body decides to proceed, it shall by ordinance fix and establish the boundaries of the district, declare that the district is formed pursuant to this chapter, describe the open areas to be maintained by the district, order the maintenance to be performed and provide that the cost and expense of doing the maintenance shall be paid by annual assessments upon the land within the district. The ordinance forming the district shall be final and conclusive on all persons in all particulars.

SEC. 26. Section 50624 of the Government Code is amended to read:

50624. If, after the formation of a district, the addition of properties to be maintained as open areas by the existing district is proposed, the legislative body shall adopt a resolution declaring its intention that the cost of maintaining the additional open areas shall be borne by the existing district. It shall fix a time and place for a hearing on the resolution, at which hearing any and all persons having any objections to the things proposed to be done may appear and be heard. The resolution shall contain the statement of the estimated annual cost of maintaining the additional open areas. If new or increased assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures pursuant to Section 53753.

SEC. 27. Section 50625 of the Government Code is repealed.

SEC. 28. Section 54716 of the Government Code is amended to read:

54716. (a) For the first fiscal year in which a benefit assessment is proposed to be imposed pursuant to this chapter, the legislative body shall cause a written report to be prepared and filed with the clerk of the local agency which shall contain all of the following information:

(1) A description of the service proposed to be financed through the revenue derived from the assessment.

(2) A description of each lot or parcel of property proposed to be subject to the benefit assessment. The assessor's parcel number shall be a sufficient description of the parcel. The area proposed to be subject to the benefit assessment may be less than the entire area of the local agency.

(3) The amount of the proposed assessment for each parcel. In the case of an assessment to be collected in installments pursuant to paragraph (2) of subdivision (a) of Section 54711, the report shall set forth the number of annual installments and the fiscal years during which they are to be collected, and fix the maximum amount of each annual installment.

(4) The basis and schedule of the assessment.

(5) In the case of an assessment levied pursuant to Section 54710.3, an identification of the assessment districts for which the local agency has assumed responsibility for redemption fund deficiencies and for which it proposes to rely on assessments levied pursuant to this chapter, and a statement of the conditions under which the assessment will actually be levied and collected in any year.

(b) The clerk shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 and posted in at least three public places within the jurisdiction of the local agency.

(c) With respect to any new or increased assessment proposed to be levied pursuant to subdivision (b) of Section 54710 or Section 54710.3, the legislative body of the local agency shall comply with the notice, hearing, and protest procedures in Section 53753.

(d) At the hearing, the legislative body shall hear and consider all protests. At the conclusion of the hearing, the legislative body may adopt, revise, change, reduce, or modify the proposed assessment. The legislative body shall make a determination upon the assessment as described in the report or as determined at the hearing, and shall, by ordinance or resolution, determine the proposed assessment.

SEC. 29. Section 54717 of the Government Code is repealed.

SEC. 30. Section 61712 of the Government Code is amended to read:

61712. (a) Assessments in an improvement district in a district shall be levied, collected and enforced at the same time and in as nearly the same manner as practicable as annual taxes for purposes of the district in which formed, except that the assessment shall be made in the same manner as provided with respect to improvement districts in irrigation districts, and in conformance with the requirements of Section 53753.

(b) New or increased assessments shall be made pursuant to Section 53753.

SEC. 31. Section 2291.2 of the Health and Safety Code is amended to read:

2291.2. (a) (1) The district board may institute projects for one or more zones, for the financing and execution of vector surveillance and control projects of common benefit to the zone or zones.

(2) Before beginning a project, the district board shall adopt a resolution which shall specify its intention to undertake the project, estimate the cost to be borne by the zones, state the duration of the assessment, state the general objectives of the surveillance or control project, and fix a time and place for a public hearing and a public meeting on the project. In the case of more than one zone, the resolution shall specify the proportionate cost to be borne by each of the zones.

(3) Notice of the public hearing, and the protest, and hearing procedures shall comply with Section 53753 of the Government Code.

(b) The assessments levied pursuant to this section shall be collected at the same time and in the same manner as county taxes. The county may deduct its actual costs incurred for collecting the assessments before remitting the balance to the district. The assessments shall be a lien on all the property benefited thereby. Liens for the assessments shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

SEC. 32. Section 26569.4 of the Public Resources Code is amended to read:

26569.4. If a protest by the owners of more than one-third of the real property to be included in the district has not been filed, the legislative body may adopt a resolution ordering the improvements and the formation of the assessment district. If the legislative body proposes to levy an assessment, the notice, protest, and hearing procedures shall comply with Section 53753 of the Government Code.

SEC. 33. Section 26653.5 is added to the Public Resources Code, to read:

26653.5. If assessments are proposed to increase from the maximum amount levied in any previous year, the board of directors shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code with respect to that increase.

SEC. 34. Section 11302 of the Streets and Highways Code is amended to read:

11302. A copy of the resolution shall be mailed, not less than 45 days prior to the hearing to each person to whom any of the following described lands is assessed as shown on the last equalized assessment roll, at his or her address as shown upon that roll, and to any person, whether owner in fee or having a lien upon, or legal or equitable interest in, any of those lands whose name and address and a designation of the land in which he or she is interested is on file in the office of the city clerk or county clerk, as the case may be. Those lands are as follows:

(a) All parcels of land abutting upon any portion of the pedestrian mall or any portion of any intersecting street.

(b) If assessments are to be levied as contemplated by Section 11202, then the notice procedures shall comply with Section 53753 of the Government Code.

The legislative body may determine that the resolution shall also be mailed to other persons as it may specify.

SEC. 35. Section 11303 of the Streets and Highways Code is amended to read:

11303. Not later than the hour set for hearing any interested person may, severally or with others, file with the clerk of the legislative body written objection to the establishment of the proposed pedestrian mall. Any protest or objection may be withdrawn at any time by written notice of the withdrawal filed with the clerk of the legislative body with the same effect as if it had never been made. If assessments are to be levied as contemplated by Section 11202, the protest and hearing procedures shall comply with Section 53753 of the Government Code.

SEC. 36. Section 11307 of the Streets and Highways Code is amended to read:

11307. If assessments are to be levied as contemplated by Section 11202, then the notice, protest, and hearing procedures shall comply with Section 53753 of the Government Code.

SEC. 37. Section 11308 of the Streets and Highways Code is amended to read:

11308. If assessments are to be levied as contemplated by Section 11202, then at the hearing the legislative body may change the boundaries of the proposed district by adding thereto land which in its opinion will be benefited by the establishment of the pedestrian mall or by excluding from the district lands which in its opinion will not be so benefited. If the legislative body proposes any such change, the notice, protest, and hearing procedures shall comply with Section 53753 of the Government Code.

SEC. 38. Section 11501 of the Streets and Highways Code is amended to read:

11501. After all claims for damages filed pursuant to this part have been finally determined, by allowance by the legislative body, by withdrawal, or by a judgment in an action or actions brought pursuant to Chapter 5 (commencing with Section 11400), and the full amount of damages to be paid has accordingly been finally determined, all or any part of the total amount of damages (but not exceeding that part thereof as may be specified in the resolution of intention), together with all costs and expenses incurred in connection with any proceedings or actions taken pursuant to this part, may be assessed against the lands within the district and subject to assessment, in proportion to the special benefits, in accordance with subdivision (a) of Section 2 of Article XIII D of the California Constitution, to be derived from the establishment of the pedestrian mall.

SEC. 39. Section 11502 of the Streets and Highways Code is amended to read:

11502. An assessment may be levied and bonds to represent unpaid assessments issued and sold substantially in the manner provided in the Vehicle Parking District Law of 1943, and to the extent applicable, that law shall govern as to the preparation of the diagram, the lien of the assessments, the notice of recordation, the collection of assessments, the issuance, sale and delivery of bonds upon unpaid assessments, the term of the bonds, the maximum interest rate thereon, the collection and enforcement of those bonds, and all other matters to the extent applicable and except as provided in this part. The notice, protest, and hearing procedures regarding the levying of the assessment shall comply with Section 53753 of the Government Code.

SEC. 40. Section 18070 of the Streets and Highways Code is amended to read:

18070. (a) After the adoption of the resolution of intention, the city council shall direct the clerk to give notice and set the time and date for a public meeting and public hearing pursuant to Section 54954.6 of the Government Code.

(b) If assessments are to be levied as contemplated by Section 18041, then the notice procedures shall comply with Section 53753 of the Government Code.

SEC. 41. Section 18074 of the Streets and Highways Code is amended to read:

18074. (a) Any person interested who objects to the proposed improvement may file a written protest, stating his or her objections, with the clerk at or before the hour set for the hearing of protests. The clerk shall indorse on every protest the date and time of its reception by him or her, and at the time appointed for the hearing shall present to the governing body all protests so filed.

(b) If assessments are to be levied, the protest procedures shall comply with Section 53753 of the Government Code.

SEC. 42. Section 18075 of the Streets and Highways Code is amended to read:

18075. The city council shall hear, consider, and pass upon the protests against the proposed improvement at the time appointed, or at any time to which the hearings may be adjourned, and its decision on all matters of protest shall be final and conclusive. If those protests are sustained, the proceedings shall be abandoned but may be renewed at any time. If those protests are denied or if no protests are filed the proposed assessment as the same shall have been modified or corrected shall be confirmed, and the city council shall thereupon acquire jurisdiction to proceed with the improvement and may by resolution order the proposed improvement to be made.

SEC. 43. Section 18076 of the Streets and Highways Code is amended to read:

18076. If there is a majority protest by the landowners in any zone to the improvement in that zone, or if the officer or person designated reports that it is practical to subdivide a zone and a majority of the landowners in that subdivided zone protest the improvement in that subdivided zone, the city council shall strike that zone or subdivided zone from the proceedings and correct the proposed assessment accordingly, unless that body, by a four-fifths affirmative vote of all its members finds that the public interest and convenience require that street lights in that zone or subdivided zone be improved. The determination of the city council shall be final and conclusive.

SEC. 44. Section 18343 of the Streets and Highways Code is amended to read:

18343. (a) The city council shall cause notice to be mailed and set the time and date for a public meeting and public hearing pursuant to Section 54954.6 of the Government Code.

(b) If assessments are to be levied as contemplated by Section 18340, the notice procedures shall comply with Section 53753 of the Government Code.

SEC. 45. Section 18362 of the Streets and Highways Code is amended to read:

18362. (a) At any time not later than the hour set for hearing protests any owner of any lot or parcel of land liable to be assessed for the improvement may make written protest against the proposed improvement by filing his or her protest with the clerk. No other protests shall be considered by the city council except as provided in this chapter.

(b) If assessments are to be levied, the protest and hearing procedures shall comply with Section 53753 of the Government Code.

SEC. 46. Section 18363 of the Streets and Highways Code is repealed.

SEC. 47. Section 18663 of the Streets and Highways Code is amended to read:

18663. The resolution of intention shall contain:

(a) A statement of the public ways to be lighted.

(b) A general description of the lighting systems to be maintained and operated.

(c) A statement of the general items of expense of maintenance and operation proposed to be furnished for the street lighting systems, the cost of which is to be assessed in whole or in part against the lands within the district. Those items may include electric power, gas, repairs, replacements, and any other items necessary for the proper maintenance of the street lighting systems.

(d) A statement of the estimated cost of all other items of maintenance and operation to be furnished the systems in the district for the first year; in addition, a separate estimate of the amount of gas or electric power necessary for the systems each year.

(e) A general description of the boundaries of the district to be benefited by and to be assessed to pay the costs of the maintenance and operation.

(f) A statement of the length of time, which shall not exceed five years from the date of the formation of the district, that the maintenance and operation shall be furnished for the systems.

(g) Notice of a public meeting and public hearing shall be given pursuant to Section 54954.6 of the Government Code. All persons having any interest in lands within the district liable to be assessed for the expenses of the maintenance and operation may be heard at the public meeting and the public hearing and any of these persons may present any

objections that they may have by written protest filed with the clerk at or before the time set for the hearing.

(h) If assessments are to be levied, the notice, protest, and hearing procedures shall comply with Section 53753 of the Government Code.

SEC. 48. Section 22090 of the Streets and Highways Code is amended to read:

22090. The city council shall cause notice to be mailed and set the time and date for a public meeting and public hearing pursuant to Section 54954.6 of the Government Code. If new or increased assessments are proposed, the city council shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 49. Section 22092 of the Streets and Highways Code is amended to read:

22092. If the owners of a majority of the front footage involved in the improvement object to the improvement, all further proceedings shall be terminated. If there is a majority protest the proceeding shall not be renewed for a period of six months, and then shall only be renewed by the adoption of another resolution of intention. If a new or increased assessment is proposed, the city council shall comply with the protest procedures in Section 53753 of the Government Code.

SEC. 50. Section 22096 of the Streets and Highways Code is amended to read:

22096. After deducting any contribution to be made by the city, the balance of the entire assessable cost of the improvement between the lot lines, in front of any lot or parcel of land abutting on a street which is to be improved, shall be chargeable to and assessed upon those lots or parcels of land.

SEC. 51. Section 22525 of the Streets and Highways Code is amended to read:

22525. ''Improvement'' means one or any combination of the following:

(a) The installation or planting of landscaping.

(b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.

(c) The installation or construction of public lighting facilities, including, but not limited to, traffic signals.

(d) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

(e) The installation of park or recreational improvements, including, but not limited to, all of the following:

(1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(2) Lights, playground equipment, play courts, and public restrooms.

(f) The maintenance or servicing, or both, of any of the foregoing.

(g) The acquisition of land for park, recreational, or open-space purposes.

(h) The acquisition of any existing improvement otherwise authorized pursuant to this section.

(i) The acquisition or construction of any community center, municipal auditorium or hall, or similar public facility for the indoor presentation of performances, shows, stage productions, fairs, conventions, exhibitions, pageants, meetings, parties, or other group events, activities, or functions, whether those events, activities, or functions are public or private.

SEC. 52. Section 22525.5 of the Streets and Highways Code is repealed.

SEC. 53. Section 22556 of the Streets and Highways Code is amended to read:

22556. Prior to levying a new assessment pursuant to Chapter 2 (commencing with Section 22585), the legislative body shall cause notice of the public hearing to be given pursuant to Section 53753 of the Government Code.

SEC. 54. Section 22588 of the Streets and Highways Code is amended to read:

22588. The legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

SEC. 55. Section 22589 of the Streets and Highways Code is repealed.

SEC. 56. Section 22590 of the Streets and Highways Code is repealed.

SEC. 57. Section 22593 of the Streets and Highways Code is amended to read:

22593. Proceedings for the formation of the assessment district shall be abandoned if there is a majority protest, as defined in Section 53753 of the Government Code.

SEC. 58. Section 22624 of the Streets and Highways Code is amended to read:

22624. After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall:

(a) Declare the intention of the legislative body to levy and collect assessments within the assessment district for the fiscal year stated therein.

(b) Generally describe the existing and proposed improvements and any substantial changes proposed to be made in existing improvements.

(c) Refer to the assessment district by its distinctive designation and indicate the general location of the district.

(d) Refer to the report of the engineer, on file with the clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

(e) Give notice of the time, as fixed by Section 22625, and the place for hearing by the legislative body on the levy of the proposed assessment.

(f) State whether the assessment is proposed to increase from the previous year.

SEC. 59. Section 22626 of the Streets and Highways Code is amended to read:

22626. Notice of the hearing shall be given by either of the following methods:

(a) If the assessments are to be levied in the same or lesser amounts than in any previous year, the clerk shall give notice by causing the resolution of intention to be published pursuant to Sections 22552 and 22553.

(b) If the assessments are to be increased from any previous year, the legislative body shall cause notice of the public hearing with respect to the increase to be given pursuant to Section 53753 of the Government Code.

SEC. 60. Section 22629 of the Streets and Highways Code is amended to read:

22629. If notice is given pursuant to subdivision (a) of Section 22626, the legislative body shall hold the public hearing pursuant to Section 53753 of the Government Code at the time and place specified in the notice and in any order continuing the hearing. If notice is given pursuant to subdivision (b) of Section 22626, the legislative body shall hold the public meeting and public hearing held pursuant to Section 53753 of the Government Code at the time and place specified in the joint notice and in any order continuing the hearing. All interested persons shall be afforded the opportunity to hear and be heard. The legislative body shall consider all oral statements and all written protests made or filed by any interested person. The legislative body may continue the hearing from time to time, provided that no continuance shall be made to a date subsequent to August 10 without the prior consent of the county auditor.

SEC. 61. Section 22630.5 of the Streets and Highways Code is amended to read:

22630.5. If there is a majority protest against the levy of an annual assessment after the formation of the assessment district that is increased from any previous year, the proposed increase in the assessment shall be abandoned. For purposes of this section, ''majority protest'' has the same meaning as provided in Section 53753 of the Government Code. For purposes of this section, ''increased assessment'' shall have the same meaning as provided in Section 54954.6 of the Government Code.

SEC. 62. Section 12 of Chapter 354 of the Statutes of 1919, as amended by Section 2 of Chapter 787 of the Statutes of 1933, is amended to read:

Sec. 12. (a) (1) Immediately after executing a contract for the construction of the improvement, the board of supervisors shall direct the engineer of construction to estimate the total cost of making the proposed improvements and performing the proposed work. The estimate shall include all expenses incurred or to be incurred, either directly or indirectly, in carrying out the work and improvements. The engineer shall assess the costs in proportion to the benefits thereof to the lands in the district.

(2) The engineer of construction shall proceed to view the lands within the district and may examine witnesses under oath. He or she shall proceed to assess against the land within the district the estimated amounts of the cost of the proposed work or improvement and the expenses incident thereto, in proportion to the benefits to be derived from the work or improvements so far as he or she reasonably can estimate the same, including in the estimate of benefits the land whether operating property or not or of any public utility within the district. He or she shall state the amounts to be assessed on each parcel of land separately, and shall divide the total assessment on each parcel of land into yearly installments of amounts clearly sufficient to retire the bonds and to pay the interest for each year that the assessment shall continue.

(3) In estimating the total cost and expenses of doing the work, the engineer of construction shall be governed by the amount he or she deems necessary to pay the principal and interest on bonds to be issued and all incidental expenses to be incurred as herein authorized. The estimates shall be based upon the contract price for doing the work as set forth in the plans and specifications together with an estimate of the incidental expenses to be incurred.

(4) The engineer of construction, having made the assessment of the benefits, shall with diligence, and before the board of supervisors declares the work to have been completed, make a written report to, and file the report with, the board, and shall accompany the report with a plat of the district showing the relative location of each block, lot or portion of lot, or other piece of land and its dimensions, so far as he or she can reasonably ascertain that information. Each block and lot, or portion of

lot, or other parcel or parcels of land affected or assessed shall be designated and described in the plat by an appropriate number. A reference to it by this descriptive number shall be sufficient description of it in all respects.

(5) The report of the engineer of construction and the affidavit accompanying it shall be filed with the clerk of the board of supervisors.

(b) The notice, protest, and hearing procedures shall comply with Section 53753 of the Government Code.

(c) (1) The board of supervisors shall, upon the adoption of the report, by order entered upon its minutes, levy against and upon all lands within the drainage improvement district No. ____, the number being that of the district as established and bounded in the order for the work to be done, a special assessment upon the lands found to be benefited by the improvement in the amount set forth in the report of the engineer of construction as adopted by the board of supervisors, and which amount shall be available for the payment of the bonds and the interest. The assessment shall be payable at the times and in the amounts indicated in the report of the engineer of construction. When the board has levied the special assessment, the clerk of the board shall file with the recorder, and with the tax collector of the county or counties in which the district is situated, certified copies of the plat and report as adopted and confirmed by the board, together with certified copies of the order of the board levying the special assessment, and also give to the county auditor notice of the total amount of the installments for each year. If the district lies within more than one county as provided in Section 2, the certified copies shall be filed with the recorder and tax collector of each county affected. Upon the filing of the certified copies, the charges assessed upon each piece of land for the first year shall immediately become due and payable, and shall constitute a lien; thereafter the installments for the succeeding year shall become due and payable on the third Monday of October of each year, and shall constitute a lien upon the land against which it is assessed.

(2) All assessment payments, either by property owners or by the county or municipality affected, shall be placed in the county treasury of the county in which the district was organized in a special fund to be known as drainage district improvement No. ____, interest and sinking fund (the number being that of the district), and shall be used only to retire the bonds issued to pay the cost of constructing the improvement and the incidental expenses, and to pay the interest on the bonds. Any surplus remaining after the bonds are retired, shall be paid into the maintenance fund of the district. Upon the filing of the certified copy of the report, assessment plat, and order with the tax collector of the county or counties as above provided, the tax collector shall give notice by ten days' publication in the newspaper designated in the resolution of

intention, that the assessment list of drainage improvement district No. ____ has been filed in his or her office, with the date of the filing; that the first installments are due and payable, and that if not paid on or before the last Monday of the following April they will become delinquent and will be collected as are delinquent taxes. The tax collector shall note on the assessment list all assessments paid, and give receipts as upon the payment of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes.

(3) Subsequent collections of installments shall be made in the same manner, and the tax collector shall annually publish a like notice, and the same proceedings shall be followed as for the collection of the first installment.

(4) When the installments have become delinquent the tax collector of the county shall proceed to collect them together with an additional 10 percent, and pay them over to the county treasurer as state and county taxes are collected and paid over; for the purpose of collecting the assessments and delinquent installments and penalties, all of the provisions of Chapter 2 (commencing with Section 2601) of Part 5 of Division 1 of the Revenue and Taxation Code not in conflict with any of the provisions of this act are applicable.

(5) The entire assessment against a parcel of land within the district, subsequent installments of principal as well as the installment for the current year, may at any time be paid in full with interest to the date of payment together with a premium of 3 percent of the principal yet unpaid, to the tax collector who shall issue receipts for the payments as provided in this section.

CHAPTER 263

An act to amend Sections 1202, 7604, and 7678 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 2000. Filed with Secretary of State August 30, 2000.]

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

SECTION 1. Section 1202 of the Public Utilities Code is amended to read:

1202. The commission has the exclusive power:

(a) To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street.

(b) To alter, relocate, or abolish by physical closing any crossing set forth in subdivision (a).

(c) To require, where in its judgment it would be practicable, a separation of grades at any crossing established and to prescribe the terms upon which the separation shall be made and the proportions in which the expense of the construction, alteration, relocation, or abolition of crossings or the separation of grades shall be divided between the railroad or street railroad corporations affected or between these corporations and the state, county, city, or other political subdivision affected.

(d) (1) To authorize on an application-by-application basis and supervise the operation of pilot projects to evaluate proposed crossing warning devices or new technology at designated crossings, with the consent of the local jurisdiction, the affected railroad, and other interested parties, including, but not limited to, represented railroad employees.

(2) (A) The Legislature finds and declares that for the communities of the state that are traversed by railroads, there is a growing need to mitigate train horn noise without compromising the safety of the public. Therefore, it is the intent of the Legislature that the commission may authorize pilot projects, after an application is filed and approved by the commission in at least the communities of Roseville and Lathrop to test the utility and safety of stationary, automated audible warning devices as an alternative to trains having to sound their horns as they approach highway-rail crossings.

(B) In light of the pending proposed ruling by the Federal Railroad Administration on the use of locomotive horns at all highway-rail crossings across the nation, it would be in the best interest of the state for the commission to expedite the pilot projects in order to contribute data to the federal rulemaking process regarding the possible inclusion of stationary, automated warning devices as a safety measure option to the proposed federal rule.

SEC. 2. Section 7604 of the Public Utilities Code is amended to read:

7604. (a) A bell, of at least 20 pounds weight or of equivalent sound-producing capability, shall be placed on each locomotive engine, and shall be rung at a distance of at least 1,320 feet from the place where the railroad crosses any street, road, or highway, and be kept ringing until

it has crossed the street, road, or highway; or a steam whistle, air siren, or an air whistle shall be attached, and be sounded at the like distance, and be kept sounding at intervals until it has crossed the street, road, or highway, except as follows:

(1) In a city, the ringing of the bell or the sounding of the steam whistle, air siren, or air whistle shall be at the discretion of the operator of the locomotive engine.

(2) When a locomotive engine is engaged in a switching operation or comes to a stop at any point within a distance of 1,320 feet from the place at which the railroad crosses any street, road, or highway, it shall not be necessary that the bell be rung or the whistle, air siren, or air whistle be sounded, until the time and from the place that the locomotive begins an uninterrupted movement to and across the place at which the railroad crosses the street, road, or highway.

(3) (A) The ringing of the bell or the sounding of the steam whistle, air siren, or air whistle is not required when approaching a railroad crossing that has a permanently installed audible warning device authorized by the commission that sounds automatically when an approaching train is at least 1,320 feet from the place where the railroad crosses any street, road, or highway, and that keeps sounding until the lead locomotive has crossed the street, road, or highway.

(B) The operator of the locomotive may ring the bell or sound the steam whistle, air siren, or air whistle at crossings equipped as set forth in subparagraph (A).

(b) Any railroad corporation violating this section shall be subject to a penalty of one hundred dollars ($100) for every violation. The penalty may be recovered in an action prosecuted by the district attorney of the proper county, for the use of the state. The corporation is also liable for all damages sustained by any person, and caused by its locomotives, train, or cars, when the provisions of this section are not complied with.

SEC. 3. Section 7678 of the Public Utilities Code is amended to read:

7678. Except as provided in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 7604, every person in charge of a locomotive engine who, before crossing any traveled public way, omits to cause a bell to ring or steam whistle, air siren, or air whistle to sound at the distance of at least 1,320 feet from the crossing, and until the lead locomotive has passed through the crossing, is guilty of a misdemeanor.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the test of the pilot program for stationary, automated audible warning devices at highway-rail crossings and the feasibility of

that system to be assessed as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 264

An act to add Chapter 2.99 (commencing with Section 7286.80) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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

SECTION 1. Chapter 2.99 (commencing with Section 7286.80) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.99. SEBASTOPOL TRANSACTIONS AND USE TAX

7286.80. (a) Subject to subdivision (b), the City of Sebastopol may levy a transactions and use tax at a rate of 0.125 percent, if an ordinance or resolution proposing that tax is approved by a majority vote of all of the members of the city council and the tax is approved by a two-thirds vote of qualified voters of the city voting in an election on the issue.

(b) (1) Any transactions and use tax imposed pursuant to this section shall be levied in accordance with Part 1.6 (commencing with Section 7251).

(2) The net revenues derived from a tax imposed pursuant to this section shall be expended for general revenue purposes.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely difficult fiscal pressures being experienced by the City of Sebastopol in providing essential services and funding for city programs and operations.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide in a timely manner to the City of Sebastopol the fiscal authority that is essential to resolve immediate and pressing issues

with respect to local services, it is necessary that this act take effect immediately.

CHAPTER 265

An act to add Section 49335 to the Education Code, relating to pupil safety.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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

SECTION 1. Section 49335 is added to the Education Code, to read:

49335. On or before April 1, 2001, the Superintendent of Public Instruction shall adopt a system that will shield the identity and provide protection to pupils who report the presence of injurious objects on school campuses that offer instruction in kindergarten and any of grades 1 to 12, inclusive.

CHAPTER 266

An act to add Section 210.5 to the Code of Civil Procedure, relating to jury service.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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

SECTION 1. The Judicial Council shall adopt a rule of court to specifically allow the mother of a breast-fed child to postpone jury duty for a period of up to one year, providing that all steps should be taken to eliminate the need for the mother to physically appear in court to make this request, and providing that at the end of the one-year period, jury duty may be further postponed upon written request by the mother of a breast-fed child.

SEC. 2. Section 210.5 is added to the Code of Civil Procedure, to read:

210.5. The Judicial Council shall adopt a standardized jury summons for use, with appropriate modifications, around the state, that

is understandable and has consumer appeal. The standardized jury summons shall include a specific reference to the rules for breast-feeding mothers. The use of the standardized jury summons shall be voluntary, unless otherwise prescribed by the rules of court.

CHAPTER 267

An act to add Section 1577.5 to the Code of Civil Procedure, relating to unclaimed property.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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

SECTION 1. Section 1577.5 is added to the Code of Civil Procedure, to read:

1577.5. (a) Section 1577 shall not apply to, and interest shall not be imposed upon, any escheated property paid or delivered to the Controller at any time on or before December 31, 2001.

(b) Subdivision (a) shall apply only if the following requirements are met:

(1) As of January 3, 2000, the holder of the property is not the subject of an investigation by the Attorney General, the subject of an audit by the Controller, or a party to litigation with the Controller, relating to the property. ''Investigation by the Attorney General'' means an investigation being conducted under any law authorizing the investigation, including, but not limited to, investigations authorized by or conducted pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code by the office of the Attorney General relating to the escheat of property subject to subdivision (a). ''Audit by the Controller'' means a formal field audit of the propertyholder's books and records by audit personnel of the Controller's office for the purpose of determining compliance with this chapter.

(2) The property was required to be reported on or before November 1, 1999.

(3) The property is surrendered directly to the state or its authorized agent.

(4) Reports respecting the property are reported by electronic media satisfactory to the Controller, provided that paper reports shall be permitted with respect to holders reporting fewer than 50 accounts or other items.

(5) All property reported after the effective date of this act shall be reported on a report separate from property currently reportable, and may not be reported with property not eligible for the amnesty program.

(6) The property is paid or delivered to the Controller at the time the report is made.

(7) Securities are remitted in accordance with Section 1532.

(8) Records shall be maintained in a manner satisfactory to the Controller, to permit verification and compliance audits.

(c) Nothing in subdivision (a) shall create an entitlement to a refund of interest paid to the Controller prior to the effective date of this section.

(d) The Controller shall conduct an outreach and publicity program regarding the provisions of this section.

(e) The Controller shall submit a report to the Legislature on the amnesty program. The report shall include a comprehensive accounting of all unclaimed property surrendered under the amnesty program, the date the property was surrendered, and the identities of the holders of surrendered unclaimed property. The report shall be published no later than December 31, 2002.

(f) Nothing in this section shall preclude liability pursuant to Article 9 (commencing with Section 12650) of Chapter 6 of Title 2 of Division 3 of the Government Code regarding false claims. Reporting or filing extensions shall not be granted for property under this section.

CHAPTER 268

An act to amend Section 1050 of the Penal Code, relating to criminal procedure.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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. In further accordance with this policy, death penalty cases in which both the prosecution and the defense have informed the court that they are prepared to proceed to trial shall be given precedence over, and set for trial and heard without regard to the pendency of, other criminal cases and any civil matters or proceedings, unless the court finds in the interest of justice that it is not appropriate.

(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.

CHAPTER 269

An act to amend Section 2230.5 of the Business and Professions Code, relating to the healing arts.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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

SECTION 1. Section 2230.5 of the Business and Professions Code is amended to read:

2230.5. (a) Except as provided in subdivisions (b) and (c), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years after the board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitation provided for by subdivision (a).

(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on

incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation provided for by subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.

CHAPTER 270

An act to amend Section 410 of the Streets & Highways Code, relating to highways.

[Approved by Governor August 30, 2000. Filed with Secretary of State August 31, 2000.]

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

SECTION 1. Section 410 of the Streets and Highways Code is amended to read:

410. (a) Route 110 is from Route 47 in San Pedro to Colorado Boulevard in Pasadena.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Pasadena the portion of Route 110 that is located between Glenarm Street and Colorado Boulevard in that city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, all of the following shall occur:

(A) The portion of Route 110 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 110 relinquished under this subdivision may not be considered for future adoption under Section 81.

(C) Route 110 shall be from Route 47 in San Pedro to Glenarm Street in Pasadena.

CHAPTER 271

An act to add Section 12072.5 to the Penal Code, relating to firearms.

[Approved by Governor August 31, 2000. Filed with
Secretary of State September 1, 2000.]

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

SECTION 1. Section 12072.5 is added to the Penal Code, to read:

12072.5. (a) For purposes of this section, ''ballistics identification systems'' includes, but is not limited to, any automated image analysis system that is capable of storing firearm ballistic markings and tracing those markings to the firearm that produced them.

(b) The Attorney General shall conduct a study to evaluate ballistics identification systems to determine the feasibility and potential benefits to law enforcement of utilizing a statewide ballistics identification system capable of maintaining a data base of ballistic images and information from test fired and sold firearms. The study shall include an evaluation of ballistics identification systems currently used by state and federal law enforcement agencies and the firearms industry. The Attorney General shall consult with law enforcement agencies, firearms industry representatives, private technology providers, and other appropriate parties in conducting the study.

(c) In evaluating ballistics identification systems to determine the feasibility of utilizing a statewide system as required pursuant to subdivision (b), the Attorney General shall consider, at a minimum, the following:

(1) The development of methods by which firearm manufacturers, importers, and dealers may potentially capture ballistic images from firearms prior to sale in California and forward that information to the Attorney General.

(2) The development of methods by which the Attorney General will receive, store, and make available to law enforcement ballistic images submitted by firearm manufacturers, importers, and dealers prior to sale in California.

(3) The potential financial costs to the Attorney General of implementing and operating a statewide ballistics identification system, including the process for receipt of information from firearm manufacturers, importers, and dealers.

(4) The capability of a ballistics identification system maintaining a data base of ballistic images and information from test fired firearms for all firearms sold in California.

(5) The compatibility of a ballistics identification system with ballistics identification systems that are currently used by law enforcement agencies in California.

(6) A method to ensure that state and local law enforcement agencies can forward ballistic identification information to the Attorney General for inclusion in a statewide ballistics identification system.

(7) The feasibility and potential benefits to law enforcement of requiring firearm manufacturers, importers, and dealers to provide the Attorney General with ballistic images from any, or a selected number of, test fired firearms prior to the sale of those firearms in California.

(d) The Attorney General shall submit a report to the Legislature with the results of the study not later than June 1, 2001. In the event the report includes a determination that a ballistics identification system and data base is feasible and would benefit law enforcement, the report shall also recommend a strategy for implementation.

CHAPTER 272

An act to amend Section 53 of the Revenue and Taxation Code, relating to grapes.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 53 of the Revenue and Taxation Code is amended to read:

53. (a) Except as provided in subdivision (b), the initial base year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII of the California Constitution shall be the full cash value of those properties as of the lien date of their first taxable year.

(b) A county board of supervisors may, after consulting with affected local agencies within the county's boundaries, provide by ordinance that the initial base year value for replacement grapevines that are planted to replace grapevines less than 15 years of age that were removed solely as a result of phylloxera infestation or Pierce's Disease, and are planted on the same parcel as the replaced grapevines, as certified in writing by the county agricultural commissioner, shall be the base year value of the removed grapevines factored to the lien date of the first taxable year of the replacement grapevines. The assignment of base year replacement value shall be limited to that portion of the replacement grapevines that are substantially equivalent to the grapevines that were replaced, if the replacement grapevines are planted at a greater density.

SEC. 1.5. Section 53 of the Revenue and Taxation Code is amended to read:

53. (a) Except as provided in subdivision (b), the initial base year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII of the California Constitution shall be the full cash value of those properties as of the lien date of their first taxable year.

(b) A county board of supervisors may, after consulting with affected local agencies within the county's boundaries, provide by ordinance that the initial base year value for replacement grapevines that are planted to replace grapevines that were removed solely as a result of phylloxera infestation, or Pierce's disease (caused by the bacterium xylella fastidiosa), and are planted on the same parcel as the replaced grapevines, as certified in writing by the county agricultural commissioner, shall be the base year value of the removed grapevines factored to the lien date of the first taxable year of the replacement grapevines. The assignment of base year replacement value shall be limited to that portion of the replacement grapevines that are substantially equivalent to the grapevines that were replaced, if the replacement grapevines are planted at a greater density.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 53 of the Revenue and Taxation Code proposed by both this bill and SB 1445. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 53 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1445, in which case Section 1 of this bill shall not become operative.

CHAPTER 273

An act to amend, repeal, and add Section 94742.1 of the Education Code, relating to private postsecondary education.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 94742.1 of the Education Code is amended to read:

94742.1. (a) ''Short-term career training'' means an educational service consisting of all of the following:

(1) The total charge to the student is two thousand dollars ($2,000) or less.

(2) The length of training is less than 250 hours.

(3) The course is represented as preparing the student for any occupation or job title.

(b) ''Short-term career training'' does not include any of the following:

(1) Instruction leading to a degree.

(2) Instruction financed by a federal or state loan or grant.

(3) Any educational service, other than provided for in subdivision (a), consisting of more than 250 hours of instruction or costing two thousand dollars ($2,000) or more in total charges that is divided or structured into one or more segments that consists of 250 or fewer hours of instruction, the total charge for which is less than two thousand dollars ($2,000).

(4) Any educational service represented to lead to, or offered for the purpose of preparing a student for, employment as a certified nursing assistant.

(c) Notwithstanding any other provision of law, this chapter is not applicable to any educational service represented to lead to, or offered for the purpose of preparing a student for, employment as a private security guard or as a private patrol operator if all of the following circumstances exist:

(1) The total charge to the student is less than seven hundred fifty dollars ($750).

(2) The training consists of less than 75 hours of instruction.

(3) The cost of instruction to the student is not financed by a federal or state loan.

(4) The educational service provided is approved by the Bureau of Security and Investigative Services of the Department of Consumer Affairs.

(d) (1) ''Short-term career training'' includes any educational service represented to lead to, or offered for the purpose of preparing a student for, employment as a private security guard or as a private patrol operator if the total charge to the student is seven hundred fifty dollars ($750) or more or if all of the following circumstances exist:

(A) The training consists of 75 or more hours of instruction.

(B) The instruction meets all of the requirements of subdivision (a).

(C) The instruction does not meet any of the criteria set forth in paragraphs (1) to (3), inclusive, of subdivision (b).

(D) The educational service provided is approved by the Bureau of Security and Investigative Services of the Department of Consumer Affairs.

(2) Any institution that provides educational services as set forth in paragraph (1) shall disclose to prospective students, in writing and prior to the signing of the enrollment agreement required by Section 94931.1, the number of hours of training required by the Bureau of Security and Investigative Services of the Department of Consumer Affairs for each type of licensure, registration, permit, or card to which the training is represented to lead.

(e) ''Short-term career training'' may include an educational service licensed by another state agency so long as that educational service complies with subdivision (a) and Article 9.5 (commencing with Section 94931).

(f) 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. Section 94742.1 is added to the Education Code, to read:

94742.1. (a) ''Short-term career training'' means an educational service consisting of all of the following:

(1) The total charge to the student is two thousand dollars ($2,000) or less.

(2) The length of training is less than 250 hours.

(3) The course is represented as preparing the student for any occupation or job title.

(b) ''Short-term career training'' does not include any of the following:

(1) Instruction leading to a degree.

(2) Instruction financed by a federal or state loan or grant.

(3) Any educational service, other than provided for in subdivision (a), consisting of more than 250 hours of instruction or costing two thousand dollars ($2,000) or more in total charges that is divided or structured into one or more segments that consists of 250 or fewer hours of instruction, the total charge for which is less than two thousand dollars ($2,000).

(4) Any educational service represented to lead to, or offered for the purpose of preparing a student for, employment as a certified nursing assistant, a private security guard, or a private patrol operator.

(c) Short-term career training may include an educational service licensed by another state agency so long as that educational service complies with subdivision (a) and Article 9.5 (commencing with Section 94931).

(d) This section shall become operative on January 1, 2005.

CHAPTER 274

An act to amend Section 12680 of the Health and Safety Code, relating to fireworks.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 12680 of the Health and Safety Code is amended to read:

12680. (a) Except as provided in subdivision (b) or (c), it is unlawful for any person to place, throw, discharge or ignite, or fire dangerous fireworks at or near any person or group of persons where there is a likelihood of injury to that person or group of persons or when the person willfully places, throws, discharges, ignites, or fires the fireworks with the intent of creating chaos, fear, or panic.

(b) Subdivision (a) does not apply to a person described in Section 12517 who uses special effects. For purposes of this subdivision, ''special effects'' means articles containing any pyrotechnic composition manufactured and assembled, designed, or discharged in connection with television, theater, or motion picture productions, which may or may not be presented before live audiences, and any other articles containing any pyrotechnic composition used for commercial, industrial, educational, recreational, or entertainment purposes when authorized by the authority having jurisdiction.

(c) Subdivision (a) does not apply to a person holding a fireworks license issued pursuant to Chapter 5 (commencing with Section 12570).

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 275

An act to amend Section 417.2 of, and to add Section 12020.3 to, the Penal Code, relating to imitation firearms.

[Approved by Governor August 31, 2000. Filed with
Secretary of State September 1, 2000.]

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

SECTION 1. Section 417.2 of the Penal Code is amended to read:

417.2. (a) Any person who, for commercial purposes, purchases, sells, manufactures, ships, transports distributes, or receives, by mail order or in any other manner, an imitation firearm except as permitted by this section shall be liable for a civil fine in an action brought by the city attorney of the city or the district attorney of the county of not more than ten thousand dollars ($10,000) for each violation.

(b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt, by mail or in any other manner, of imitation firearms is permitted if the device is manufactured, purchased, sold, shipped, transported, distributed, or received for any of the following purposes:

(1) Solely for export in interstate or foreign commerce.

(2) Solely for lawful use in theatrical productions, including motion picture, television, and stage productions.

(3) For use in a certified or regulated athletic event or competition.

(4) For use in military or civil defense activities.

(5) For public displays authorized by public or private schools.

(c) As used in this section, ''imitation firearm'' means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(d) As used in this section, ''imitation firearm'' does not include any of the following:

(1) A nonfiring collector's replica of an antique firearm that was designed prior to 1898, is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A nonfiring collector's replica of a firearm that was designed after 1898, is historically significant, was issued as a commemorative by a nonprofit organization, and is offered for sale in conjunction with a wall plaque or presentation case.

(3) A device, as defined in subdivision (g) of Section 12001.

(4) An imitation firearm where the coloration of the entire exterior surface of the device is bright orange or bright green, either singly or in combination.

(5) An instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO_2 pressure, or spring action, or a spot marker gun.

SEC. 2. Section 12020.3 is added to the Penal Code, to read:

12020.3. Any person who, for commercial purposes, purchases, sells, manufacturers, ships, transports, distributes, or receives a firearm, where the coloration of the entire exterior surface of the firearm is bright orange or bright green, either singly, in combination, or as the predominant color in combination with other colors in any pattern, is liable for a civil fine in an action brought by the city attorney of the city or the district attorney for the county of not more than ten thousand dollars ($10,000).

CHAPTER 276

An act to amend Sections 9744 and 9745 of the Business and Professions Code, and to amend Section 7054.6 of the Health and Safety Code, relating to cremated human remains disposal.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 9744 of the Business and Professions Code is amended to read:

9744. Each cremated remains disposer shall provide the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code with a copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 30 days of the date of the scattering .

SEC. 2. Section 9745 of the Business and Professions Code is amended to read:

9745. (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the bureau no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual

report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

SEC. 2.5. Section 9745 of the Business and Professions Code is amended to read:

9745. (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the Cemetery Program. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the Cemetery Program no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

SEC. 3. Section 7054.6 of the Health and Safety Code is amended to read:

7054.6. (a) Cremated remains may be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains under Section 7100, or the durable container holding the cremated remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 103060. The placement, in any place, of six or more cremated remains under this section does not constitute the place a cemetery, as defined in Section 8100.

(b) Prior to disposition of cremated remains, every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, shall do all of the following:

(1) Remove the cremated remains from the place of cremation in a durable container.

(2) Keep the cremated remains in a durable container.

(3) Store the cremated remains in a place free from exposure to the elements.

(4) Responsibly maintain the cremated remains.

SEC. 4. Section 2 of this act shall only become operative if Assembly Bill 2888 of the 1999–2000 Regular Session is enacted and transfers the duties of the Cemetery Program to the Cemetery and Funeral Bureau. In that case, Section 2.5 of this act shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 277

An act to amend Sections 113, 3300, 3306, 3325, 3326, 3327, 3327.5, 3328, 3329, 3330, 3350, 3352, 3353, 3354, 3356, 3357, 3358, 3360, 3362, 3364, 3400, 3401, 3402, 3403, 3404, 3421, 3422, 3423, 3424, 3426, 3430, 3451, 3452, 3454, 3455, and 3456 of, to amend, renumber, and add Section 3321 of, and to repeal Sections 3301, 3302, 3303, 3304, 3305, 3305.5, 3322, and 3323 of, the Business and Professions Code, relating to hearing aid dispensers.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 113 of the Business and Professions Code is amended to read:

113. Upon recommendation of the director, officers, and employees of the department, and the officers, members, and employees of the boards, committees, and commissions comprising it or subject to its jurisdiction may confer, in this State or elsewhere, with officers or employees of this State, its political subdivisions, other States, or the United States, or with other persons, associations, or organizations as may be of assistance to the department, board, committee, or commission in the conduct of its work. The officers, members and

employees shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when these expenses are incurred with respect to travel outside of the State, they shall be subject to the approval of the Governor and the Director of Finance.

SEC. 2. Section 3300 of the Business and Professions Code is amended to read:

3300. For the purposes of this chapter, the following definitions shall apply:

(a) ''Person'' includes any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(b) ''Advertise'' and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

(c) ''Department'' means the Department of Consumer Affairs.

(d) ''Bureau'' means the Hearing Aid Dispensers Bureau.

(e) ''Advisory committee'' or ''committee'' means the Hearing Aid Dispensers Advisory Committee.

(f) ''License'' includes a temporary license.

(g) ''Licensee'' means a person holding a license.

(h) ''Hearing aid'' means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

(i) ''Director'' means the Director of Consumer Affairs.

(j) ''Chief'' means the Chief of the Hearing Aid Dispensers Bureau.

SEC. 3. Section 3301 of the Business and Professions Code is repealed.

SEC. 4. Section 3302 of the Business and Professions Code is repealed.

SEC. 5. Section 3303 of the Business and Professions Code is repealed.

SEC. 6. Section 3304 of the Business and Professions Code is repealed.

SEC. 7. Section 3305 of the Business and Professions Code is repealed.

SEC. 8. Section 3305.5 of the Business and Professions Code is repealed.

SEC. 9. Section 3306 of the Business and Professions Code is amended to read:

3306. (a) ''Practice of fitting or selling hearing aids,'' as used in this chapter, means those practices used for the purpose of selection and

adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

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

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

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

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

SEC. 10. Section 3321 of the Business and Professions Code is amended and renumbered to read:

3320. (a) There is within the jurisdiction of the department the Hearing Aid Dispensers Bureau. The bureau is under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief, who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and to declare the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The Governor shall appoint a chief of the bureau, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

SEC. 11. Section 3321 is added to the Business and Professions Code, to read:

3321. (a) There is within the bureau a Hearing Aid Dispensers Advisory Committee. The committee shall consist of seven members; three of whom shall be licensed hearing aid dispensers and four of whom shall be public members. Only one of the licensed members may also be licensed as an audiologist.

(b) Each member of the committee shall hold office for a term of four years. Each member 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.

(c) Vacancies occurring shall be filled by appointment for the unexpired term. Each member of the committee shall be eligible for reappointment in the discretion of the appointing power, provided that reappointed members shall, at the time of the reappointment, hold a valid license under this chapter. No person may serve as a member of the committee for more than two consecutive terms.

(d) The Governor shall appoint two of the public members and the three licensees. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member. When appointing the public members, consideration shall be given to appointing a hearing-impaired individual.

(e) Every member of the committee shall receive per diem and expenses as provided in Section 103 and 113.

(f) The advisory committee shall:

(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.

(2) Consider and make appropriate recommendations to the bureau in all matters relating to hearing aid dispensing in this state.

(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.

(g) The bureau shall meet and consult with the committee regarding general policy issues related to hearing aid dispensing.

SEC. 12. Section 3322 of the Business and Professions Code is repealed.

SEC. 13. Section 3323 of the Business and Professions Code is repealed.

SEC. 14. Section 3325 of the Business and Professions Code is amended to read:

3325. Notice of each meeting of the committee shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 15. Section 3326 of the Business and Professions Code is amended to read:

3326. The bureau shall keep a record of all prosecutions for violations of this chapter and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.

SEC. 16. Section 3327 of the Business and Professions Code is amended to read:

3327. The bureau may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The bureau may require that prospective licensees shall first complete the required course of instruction or otherwise satisfy the bureau that the licensee possesses the necessary background and qualifications to fit or sell hearing aids. If the bureau promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, it shall obtain the advice of persons knowledgeable in the preparation and administration of a course of instruction.

The bureau may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.

SEC. 17. Section 3327.5 of the Business and Professions Code is amended to read:

3327.5. All holders of licenses to sell or fit hearing aids shall continue their education after receiving the license. The bureau shall provide by regulation, as a condition to the renewal of a license, that licensees shall submit documentation satisfactory to the bureau that they have informed themselves of current practices related to the fitting of hearing aids by having pursued courses of study satisfactory to the bureau or by other means defined as equivalent by the bureau.

Continuing education courses shall be subject to monitoring to ensure compliance with the regulations adopted by the bureau pursuant to this section.

SEC. 18. Section 3328 of the Business and Professions Code is amended to read:

3328. The bureau may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations that are necessary to enable the bureau to carry into effect the provisions of law relating to the practice of fitting or selling hearing aids.

SEC. 19. Section 3329 of the Business and Professions Code is amended to read:

3329. (a) The bureau may prosecute any and all persons for any violation of this chapter.

(b) The director shall hear and decide all matters, including but not limited to, any contested case or any petition for reinstatement or modification of probation, or may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 20. Section 3330 of the Business and Professions Code is amended to read:

3330. The bureau may employ the personnel necessary to administer this chapter, other than personnel to perform inspections or investigations, and may incur other expenses as are necessary for the administration of this chapter. All inspections or investigations made pursuant to this chapter shall be made by personnel from the Division of Investigation of the department.

SEC. 21. Section 3350 of the Business and Professions Code is amended to read:

3350. It is unlawful for an individual to engage in the practice of fitting or selling of hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the bureau under the provisions of this chapter. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this chapter. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the fitting or selling of hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.

SEC. 22. Section 3352 of the Business and Professions Code is amended to read:

3352. Each person desiring to obtain a license to engage in the practice of fitting or selling hearing aids shall make application to the bureau. The application shall be made upon a form and shall be made in the manner as is provided by the bureau and shall be accompanied by the fee provided for in Section 3456.

SEC. 23. Section 3353 of the Business and Professions Code is amended to read:

3353. (a) The bureau shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The bureau may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the bureau, provided, however, that the bureau shall establish the guidelines for the examination and shall approve the actual examination.

(b) Each applicant shall take and pass a written examination and a practical examination compiled at the direction of the bureau covering the critical tasks involved in the fitting and selling of hearing aids and the knowledge, skills, and abilities needed to perform those tasks safely and competently.

SEC. 24. Section 3354 of the Business and Professions Code is amended to read:

3354. The bureau shall issue a license to all applicants who have satisfied this chapter, who are at least 18 years of age, who possess a high school diploma or its equivalent, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and who have paid the fees provided for in Section 3456. No license shall be issued to any person other than an individual.

SEC. 25. Section 3356 of the Business and Professions Code is amended to read:

3356. (a) An applicant who has fulfilled the requirements of Section 3352 and has made application therefor, may have a temporary license issued to him or her upon satisfactory proof to the bureau that the applicant holds a hearing aid dispenser's license in another state, that the licensee has not been subject to formal disciplinary action by another licensing authority, and that the applicant has been engaged in the fitting and sale of hearing aids for the two years immediately prior to application.

(b) A temporary license issued pursuant to this section shall be valid for one year from date of issuance and is not renewable. A temporary license shall automatically terminate upon issuance of a license prior to expiration of the one-year period.

(c) The holder of a temporary license issued pursuant to this section who fails either license examination shall be subject to and shall comply with the supervision requirements of Section 3357 and any regulations adopted pursuant thereto.

SEC. 26. Section 3357 of the Business and Professions Code is amended to read:

3357. (a) An applicant who has fulfilled the requirements of Section 3352, and has made application therefor, and who proves to the satisfaction of the bureau that he or she will be supervised and trained by a hearing aid dispenser who is approved by the bureau may have a temporary license issued to him or her. The temporary license shall entitle the temporary licensee to fit or sell hearing aids as set forth in regulations of the bureau. The supervising dispenser shall be responsible for any acts or omissions committed by a temporary licensee under his or her supervision that may constitute a violation of this chapter.

(b) The bureau shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a temporary licensee, including procedures to appeal that decision.

(c) A temporary license issued pursuant to this section is effective and valid for six months from date of issue. The bureau may renew the temporary license for an additional period of six months. The bureau shall not issue more than two renewals of a temporary license to any applicant. If a temporary licensee who is entitled to renew a temporary license does not renew the temporary license and applies for a new temporary license at a later time, the new temporary license shall only be issued and renewed subject to the limitations set forth in this subdivision.

SEC. 27. Section 3358 of the Business and Professions Code is amended to read:

3358. A temporary licensee under Section 3357 shall take the license examination within the first 10 months after the temporary license is issued. Failure to take the license examination within that time shall result in expiration of the temporary license, and it shall not be renewed unless the temporary licensee has first taken the licensure examination. The bureau, however, may in its discretion renew the temporary license if the licensee failed to take the necessary examination due to illness or other hardship.

SEC. 28. Section 3360 of the Business and Professions Code is amended to read:

3360. Practical examinations shall be held by the bureau at least twice a year. The time and place of any practical examination shall be fixed by the bureau at least 45 days prior to the date it is to be held.

SEC. 29. Section 3362 of the Business and Professions Code is amended to read:

3362. (a) Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the bureau in writing of the address or addresses where he or she is to engage, or intends to engage, in the fitting or selling of hearing aids, and of any changes in his or her place of business.

(b) If a street address is not the address at which the licensee receives mail, the licensee shall also notify the bureau in writing of the mailing address for each location where the licensee is to engage, or intends to engage, in the fitting or selling of hearing aids, and of any change in the mailing address of his or her place or places of business.

SEC. 30. Section 3364 of the Business and Professions Code is amended to read:

3364. (a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in such fitting or selling, routinely open for

service to customers or clients. The address of the licensee's place of business shall be registered with the bureau as provided in Section 3362.

(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state he or she shall apply for and procure a duplicate license for each branch office maintained. Such application shall state the name of the person and the location of the place or places of business for which such duplicate license is desired.

(c) A hearing aid dispenser may, without obtaining a duplicate license for a branch office, engage on a temporary basis in the fitting or selling of hearing aids at the primary or branch location of another licensee's business or at a location or facility which he or she may use on a temporary basis, provided, that, such hearing aid dispenser notifies the bureau in advance in writing of the dates and addresses of those businesses, locations or facilities at which he or she will engage in the fitting or selling of hearing aids.

SEC. 31. Section 3400 of the Business and Professions Code is amended to read:

3400. Proceedings to deny, suspend, or revoke a license under this chapter, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

SEC. 32. Section 3401 of the Business and Professions Code is amended to read:

3401. The bureau may deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

(a) Gross incompetency, which includes, but is not limited to, the improper or unnecessary fitting of a hearing aid.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Conviction of any crime substantially related to the qualifications, functions, or duties of a hearing aid dispenser.

(e) Obtaining a license by fraud or deceit.

(f) Use of the term ''doctor'' or ''physician'' or ''clinic'' or ''audiologist,'' or any derivation thereof, except as authorized by law.

(g) Fraud or misrepresentation in the fitting or selling of a hearing aid.

(h) The employment, to perform any act covered by this chapter, of any person whose license has been suspended, revoked, or who does not possess a valid license issued under this chapter.

(i) The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(j) Habitual intemperance in the use of alcohol or any controlled substance.

(k) Permitting another to use his or her license for any purpose.

(*l*) Violation of any provision of this chapter or of any regulation adopted pursuant to this chapter.

(m) Any cause that would be grounds for denial of an application for a license.

(n) Violation of Section 1689.6 or 1793.02 of the Civil Code.

SEC. 33. Section 3402 of the Business and Professions Code is amended to read:

3402. Upon denial of an application for license, the bureau shall notify the applicant in writing, stating (1) the reason for the denial and (2) that the applicant has a right to a hearing under Section 3400 if he or she makes written request therefor within 60 days after notice of denial. Service of the notice required by this section may be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the bureau in his or her application or otherwise.

SEC. 34. Section 3403 of the Business and Professions Code is amended to read:

3403. A plea or verdict of guilty or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions and duties of a hearing aid dispenser is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, impose probationary conditions on a licensee, or may decline to issue 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 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 35. Section 3404 of the Business and Professions Code is amended to read:

3404. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the bureau may require the petitioner to pass the regular examination given for applicants for licenses.

SEC. 36. Section 3421 of the Business and Professions Code is amended to read:

3421. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the bureau.

SEC. 37. Section 3422 of the Business and Professions Code is amended to read:

3422. It is unlawful to purchase or procure by barter any license issued by the bureau with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.

SEC. 38. Section 3423 of the Business and Professions Code is amended to read:

3423. It is unlawful to alter with fraudulent intent in any material regard a license issued by the bureau.

SEC. 39. Section 3424 of the Business and Professions Code is amended to read:

3424. It is unlawful to use or attempt to use any license issued by the bureau that has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.

SEC. 40. Section 3426 of the Business and Professions Code is amended to read:

3426. It is unlawful to willfully make any false statement in a material regard in an application for an examination before the bureau for a license.

SEC. 41. Section 3430 of the Business and Professions Code is amended to read:

3430. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court for the county wherein the acts or practices take place or are about to take place, may issue an injunction or other appropriate order, restraining such conduct on application of the bureau, the Attorney General, or the district attorney of the county. If the acts or practices constitute, or will constitute, an offense against Section 3306.5, the application to the superior court may be made by the State Board of Optometry. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 42. Section 3451 of the Business and Professions Code is amended to read:

3451. (a) A license issued under this chapter expires at midnight on its assigned renewal date.

(b) To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the bureau, accompanied by the prescribed renewal fee.

(c) Temporary license holders shall renew their licenses in accordance with Section 3357, and apply for that renewal on a form provided by the bureau, accompanied by the prescribed renewal fee for temporary licenses.

(d) Each duplicate license issued for a branch office shall expire on the same date as the permanent license of the hearing aid dispenser to

whom the duplicate license was issued. These duplicate licenses shall be renewed according to subdivision (b).

SEC. 43. Section 3452 of the Business and Professions Code is amended to read:

3452. Except as otherwise provided in this chapter, an expired license may be renewed at any time within three years after its expiration on filing of an application for renewal on a form prescribed by the bureau, and payment of all accrued and unpaid renewal fees. If the license is renewed after its expiration the licensee, 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 renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 3451 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 44. Section 3454 of the Business and Professions Code is amended to read:

3454. A license that is not renewed within three years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if all of the following apply:

(a) He or she has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He or she pays all the fees that would be required of him or her if he or she were then applying for a license for the first time.

(c) He or she takes and passes the examination that would be required of him or her if he or she were then applying for a license for the first time, or otherwise establishes to the satisfaction of the bureau that he or she is qualified to engage in the practice of fitting or selling hearing aids. The bureau may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 45. Section 3455 of the Business and Professions Code is amended to read:

3455. There is established in the State Treasury the Hearing Aid Dispensers Fund. All fees collected pursuant to this chapter shall be paid by the bureau into the fund. All money in the Hearing Aid Dispensers Fund is continuously appropriated to the bureau to carry out the purposes of this chapter.

SEC. 46. Section 3456 of the Business and Professions Code is amended to read:

3456. The amount of fees and penalties prescribed by this chapter shall be those set forth in this section unless a lower fee is fixed by the bureau:

(a) The fee for applicants applying for the first time for a license is seventy-five dollars ($75), which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license. Those applicants are entitled to a refund of fifty dollars ($50).

(b) The fees for taking or retaking the written and practical examinations shall be amounts fixed by the bureau, which shall be equal to the actual cost of preparing, grading, analyzing, and administering the examinations.

(c) The initial temporary license fee is one hundred dollars ($100). The fee for renewal of a temporary license is one hundred dollars ($100) for each renewal.

(d) The initial permanent license fee is two hundred eighty dollars ($280). The fee for renewal of a permanent license is not more than two hundred eighty dollars ($280) for each renewal.

(e) The initial branch office license fee is twenty-five dollars ($25). The fee for renewal of a branch office license is twenty-five dollars ($25) for each renewal.

(f) The delinquency fee is twenty-five dollars ($25).

(g) The fee for issuance of a replacement license upon loss of an original license or upon change of name authorized by law of a person holding a license under this chapter is twenty-five dollars ($25).

(h) The continuing education course approval application fee is fifty dollars ($50). The fee for a continuing education course transcript is ten dollars ($10).

(i) The fee for official certification of licensure is fifteen dollars ($15). The fee for a license confirmation letter is ten dollars ($10).

CHAPTER 278

An act to amend the heading of Chapter 5 (commencing with Section 56.26) of Part 2.6 of Division 1 of, and to add Section 56.265 to, the Civil Code, relating to medical information confidentiality.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. The heading of Chapter 5 (commencing with Section 56.26) of Part 2.6 of Division 1 of the Civil Code is amended to read:

CHAPTER 5. USE AND DISCLOSURE OF MEDICAL AND OTHER INFORMATION BY THIRD PARTY ADMINISTRATORS AND OTHERS

SEC. 2. Section 56.265 is added to the Civil Code, to read:

56.265. A person or entity that underwrites or sells annuity contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, and any affiliate of that person or entity, shall not disclose individually identifiable information concerning the health of, or the medical or genetic history of, a customer, to any affiliated or nonaffiliated depository institution, or to any other affiliated or nonaffiliated third party for use with regard to the granting of credit.

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 279

An act to amend Sections 11010.2, 11010.3, and 11011 of, and to add Sections 11010.10 and 11010.35 to, the Business and Professions Code, relating to subdivided lands.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 11010.2 of the Business and Professions Code is amended to read:

11010.2. (a) As used in this section:

(1) ''Quantitative'' means the number and type of documents required to make the filing substantially complete, as defined in the regulations of the commissioner, without regard to the content of those requirements.

(2) ''Qualitatively complete'' means that all deficiencies and substantive inadequacies contained in the documents that were required to make the filing substantially complete have been corrected.

(3) ''Substantially complete'' means that a notice and application contain all requirements as set forth in the regulations of the commissioner.

(b) Upon receipt of a notice of intention pursuant to Section 11010 and an application for issuance of a public report, the commissioner shall review the notice and application to determine if the notice and application are substantially complete, with respect to quantitative requirements. The commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(1) If the notice and application are not substantially complete with respect to the quantitative requirements pursuant to this subdivision, the notification shall specify the information needed to make the notice and application substantially complete. Upon receipt of any resubmittal of a notice and application, the commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(2) If the commissioner determines that the notice and application are substantially complete with respect to the quantitative requirements pursuant to this subdivision, the commissioner shall provide the applicant with a list of all deficiencies and substantive inadequacies necessary for the notice and application to be qualitatively complete, within 60 days of that determination, in the case of subdivisions specified in Section 11000.1 or 11004.5, and within 20 days of that determination, in the case of other subdivisions.

(c) Upon receipt of all documents, materials, writings, and other information submitted in response to the list in paragraph (2) of subdivision (b), the commissioner shall notify the applicant whether the notice and application are qualitatively complete within 30 days, in the case of subdivisions specified in Section 11000.1 or 11004.5, and within 20 days of receipt, in the case of other subdivisions. If the application and notice are not qualitatively complete, the notification shall include a list of any remaining deficiencies and substantive inadequacies. Upon receipt of any resubmittal of documents, materials, writings, and other information in response to a list of any remaining deficiencies and substantive inadequacies, the commissioner shall provide notification within the time limits specified in this subdivision.

(d) The commissioner shall issue a public report within 15 days, in the case of a subdivision specified in Section 11000.1 or 11004.5, or 10 days, in the case of other subdivisions, after the notice and application are determined to be qualitatively and substantially complete, and submittal of recorded or filed instruments and evidence of financial arrangements required by the commissioner.

(e) Upon receipt of an application for approval of a declaration as provided in Section 11010.10, the commissioner shall notify the applicant of any deficiency or inadequacy in the declaration within 60 days of its receipt. The commissioner shall notify the applicant of any deficiency or inadequacy in a declaration that has been revised following the first notice of deficiency or inadequacy within 30 days of its receipt.

(f) The commissioner shall adopt regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, that define ''substantially complete'' and that list all the requirements necessary for a notice of intention and application to be considered ''substantially complete.''

(g) The commissioner may adopt emergency regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to increase, as set forth below, those time periods specified in subdivisions (b), (c), and (d), upon a showing that the number of notices of intention and applications for a subdivision public report filed with the department for any immediately preceding six-month period has increased by more than 15 percent over the monthly average number of notices and applications filed for the base period commencing July 1, 1983, and ending June 30, 1986:

(1) The time for issuing the notice provided in subdivision (b) shall increase to 15 days.

(2) The time for providing the listing required by paragraph (2) of subdivision (b) shall increase to 90 days, in the case of subdivisions specified in Sections 11000.1 and 11004.5, and to 30 days, in the case of other subdivisions.

(3) The time period provided in subdivision (c) for responding to receipt of documents intended to correct deficiencies shall be 30 days without regard to the type of subdivision being processed.

(4) The time periods provided in subdivision (d) within which the commissioner is required to issue a public report in the case of subdivisions specified in Sections 11000.1 and 11004.5, shall increase to 30 days and in the case of other subdivisions shall increase to 15 days.

This section does not apply to filings made exclusively under Section 11010.1. Nothing in this section requires the commissioner to issue a public report where grounds for denial exist, provided that issuance of a public report shall not be denied for inadequate information if the cause thereof is the commissioner's failure to comply with this section.

Notwithstanding other provisions of this section, the commissioner shall not be required to issue a public report if grounds for denial exist under Section 11018 or 11018.5. However, the commissioner may not base the denial of a public report on the lack of adequate information if

the commissioner has not acted within the time periods prescribed in this section.

SEC. 2. Section 11010.3 of the Business and Professions Code is amended to read:

11010.3. The provisions of this chapter shall not apply to the proposed sale or lease of lots or other interests in a subdivision in which lots or other interests are (a) limited to industrial or commercial uses by zoning or (b) limited to industrial or commercial uses by a declaration of covenants, conditions, and restrictions, which declaration has been recorded in the official records of the county or counties in which the subdivision is located.

SEC. 3. Section 11010.10 is added to the Business and Professions Code, to read:

11010.10. A person who plans to offer for sale or lease lots or other interests in a subdivision which sale or lease (a) is not subject to the provisions of this chapter, (b) does not require the submission of a notice of intention as provided in Section 11010, or (c) is subject to this chapter and for which the local jurisdiction requires review and approval of the declaration, as defined in subdivision (h) of Section 1351 of the Civil Code, prior to or concurrently with the recordation of the subdivision map and prior to the approval of the declaration pursuant to a notice of intention for a public report, may submit an application requesting review of the declaration, along with any required supporting documentation, to the commissioner, without the filing of a notice of intention for the subdivision for which the declaration is being prepared. Upon approval , the commissioner shall give notice to the applicant that the declaration shall be approved for a subsequent notice of intent filing for any public report for the subdivision identified in the application, provided that the subdivision setup is substantially the same as that originally described in the application for review of the declaration.

SEC. 4. Section 11010.35 is added to the Business and Professions Code, to read:

11010.35. (a) The provisions of this chapter shall not apply to the proposed sale or lease of five or more lots, parcels, or other interests in a subdivision or the sale of one or more lots or parcels in a subdivision where the lot or lots or parcel or parcels are intended to be further subdivided into five or more lots, parcels, or other subdivision interests as defined in Sections 11000, 11000.1, and 11004.5, to any person who acquires the lots, parcels, or other subdivision interests for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings, or for the purpose of resale or lease of the lots, parcels, or other subdivision interests to persons engaged in this business, provided that the purchase or lease agreement or a separate disclosure document includes a statement or provision that the purchaser

or lessee is required to comply with the applicable provisions of this chapter prior to offering for sale or lease any lot, parcel, or other subdivision interest acquired pursuant to the exemption granted by this subdivision.

(b) The exemption provided by subdivision (a) does not apply to a proposed sale or lease of lots, parcels, or other subdivision interests that is done for the purpose of evading any other provision of this chapter.

(c) The provisions of subdivision (a) are intended to clarify the application of this chapter to the commercial sale or lease of residential subdivision interests and should not be interpreted to impose requirements on transactions entered into prior to the date on which this section became operative.

SEC. 5. Section 11011 of the Business and Professions Code is amended to read:

11011. (a) The commissioner may by regulation prescribe filing fees in connection with applications to the Department of Real Estate pursuant to this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

(b) The filing fee for an application for a public report to be issued under authority of this chapter shall not exceed the following for each subdivision or phase of a subdivision in which interests are to be offered for sale or lease:

(1) A notice of intention without a completed questionnaire: One hundred fifty dollars ($150).

(2) An original public report for subdivision interests described in Section 11004.5: One thousand seven hundred dollars ($1,700) plus ten dollars ($10) for each subdivision interest to be offered.

(3) An original public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars ($600) plus ten dollars ($10) for each subdivision interest to be offered.

(4) A conditional public report for subdivision interests described in Section 11004.5: Five hundred dollars ($500).

(5) A conditional public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500).

(6) A preliminary public report for subdivision interests described in Section 11004.5: Five hundred dollars ($500).

(7) A preliminary public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500).

(8) A renewal public report for subdivision interests described in Section 11004.5: Six hundred dollars ($600).

(9) A renewal public report for subdivision interests other than those described in Section 11004.5: Six hundred dollars ($600).

(10) An amended public report for subdivision interests described in Section 11004.5: Five hundred dollars ($500) plus ten dollars ($10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(11) An amended public report to offer subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500) plus ten dollars ($10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

(c) The filing fee to review a declaration as described in Section 11010.10 shall not exceed two hundred dollars ($200).

(d) The actual subdivision fees established by regulation under authority of this section and Section 10249.3 shall not exceed the amount reasonably required by the department to administer this part and Article 8 (commencing with Section 10249) of Chapter 3 of Part 1.

(e) All fees collected by the department under authority of this chapter shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. All fees received by the department pursuant to this chapter shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as the result of a mistake or inadvertence.

This section shall remain in effect unless it is superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

CHAPTER 280

An act to amend Section 790.06 of the Insurance Code, relating to insurance.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 790.06 of the Insurance Code is amended to read:

790.06. (a) Whenever the commissioner shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of the business that is not defined in Section 790.03, and that the method is unfair or that the act or practice is unfair or deceptive and that

a proceeding by him or her in respect thereto would be in the interest of the public, he or she may issue and serve upon that person an order to show cause containing a statement of the methods, acts or practices alleged to be unfair or deceptive and a notice of hearing thereon to be held at a time and place fixed therein, which shall not be less than 30 days after the service thereof, for the purpose of determining whether the alleged methods, acts or practices or any of them should be declared to be unfair or deceptive within the meaning of this article. The order shall specify the reason why the method of competition is alleged to be unfair or the act or practice is alleged to be unfair or deceptive.

The hearings provided by this section shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) and the commissioner shall have all the powers granted therein. If the alleged methods, acts, or practices or any of them are found to be unfair or deceptive within the meaning of this article the commissioner shall issue and service upon that person his or her written report so declaring.

(b) If the report charges a violation of this article and if the method of competition, act or practice has not been discontinued, the commissioner may, through the Attorney General of this state, at any time after 30 days after the service of the report cause a petition to be filed in the superior court of this state within the county wherein the person resides or has his or her principal place of business, to enjoin and restrain the person from engaging in the method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue any writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(c) A transcript of the proceedings before the commissioner, including all evidence taken and the report and findings shall be filed with the petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that the additional evidence is material and there were reasonable grounds for the failure to adduce the evidence in the proceeding before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be adduced upon the hearing in the manner and upon the terms and conditions as to the court may seem proper. The commissioner may modify his or her findings of fact or make new findings by reason of the additional evidence so taken, and shall file modified or new findings with the return of the additional evidence.

(d) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner with respect thereto is to the interest

of the public and that the findings of the commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of the method of competition, act or practice.

CHAPTER 281

An act to add Sections 49423.5.1 and 49423.6 to the Education Code, relating to school medical personnel.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 49423.5.1 is added to the Education Code, to read:

49423.5.1. On or before June 15, 2001, the State Department of Education shall review and make recommendations to the State Board of Education regarding any needed updates to the regulations adopted pursuant to subdivision (e) of Section 49423.5.

SEC. 2. Section 49423.6 is added to the Education Code, to read:

49423.6. (a) On or before June 15, 2001, the State Department of Education shall develop and recommend to the State Board of Education, and the board shall adopt regulations, regarding the administration of medication in the public schools pursuant to Section 49423. These regulations shall be developed in consultation with parents, representatives of the medical and nursing professions, and other individuals jointly designated by the Superintendent of Public Instruction, the Advisory Commission on Special Education established pursuant to Section 33590, and the Department of Health Services. The Board of Registered Nursing may designate a liaison to consult with the Board of Education in the adoption of these regulations.

(b) Any regulations adopted pursuant to this section shall be limited to addressing a situation where a pupil's parent or legal guardian has initiated a request to have a local educational agency dispense medicine to a pupil, based on the written consent of the pupil's parent or legal guardian, for a specified medicine with a specified dosage, for a specified period of time, as prescribed by a physician or other authorized medical personnel.

CHAPTER 282

An act to amend Section 70.4 of, and to add Sections 70.3 and 70.5 to, the Harbors and Navigation Code, relating to harbors and ports.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 70.3 is added to the Harbors and Navigation Code, to read:

70.3. ''Harbor of safe refuge'' means a port, harbor, inlet, or other body of water normally sheltered from heavy seas by land and in which a vessel can navigate and safely moor, as set forth in Section 70.5.

SEC. 2. Section 70.4 of the Harbors and Navigation Code is amended to read:

70.4. No city, county, or district that has received, or is receiving, money under this division for the construction or improvement of a small craft harbor of refuge shall exclude, consistent with the intent of Section 40, the use of that harbor by a commercial boat, or any vessel in need of a safe harbor for refuge purposes. Each vessel entering and using a harbor of safe refuge pursuant to this section shall pay the published fees for services rendered while in the harbor and shall comply with all other applicable local, state, and federal laws while in the harbor and while using any facilities in the harbor.

SEC. 3. Section 70.5 is added to the Harbors and Navigation Code, to read:

70.5. (a) The following are harbors of safe refuge:

(1) Bodega Bay Harbor.
(2) Channel Islands Harbor.
(3) Crescent City Harbor.
(4) Dana Point Harbor.
(5) Fort Bragg Harbor.
(6) Humboldt Bay Harbor.
(7) Kings Harbor.
(8) Marina del Rey Harbor.
(9) Monterey Harbor.
(10) Morro Bay Harbor.
(11) Moss Landing.
(12) Newport Beach Harbor.
(13) Oceanside Harbor.
(14) Pillar Point Harbor.
(15) Port San Luis Harbor.
(16) Santa Barbara Harbor.

(17) Santa Cruz Harbor.

(18) Ventura Harbor.

(b) The use of any harbor listed in subdivision (a) for safe refuge purposes is subject to the suitability of that location as a harbor of safe refuge as determined by the cognizant Officer in Charge, Marine Inspection, United States Coast Guard, as described in the definition of ''harbor of safe refuge'' in Section 175.400 of Title 46 of the Code of Federal Regulations.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 283

An act to amend Section 44277 of the Education Code, relating to pupil and personnel health.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 44277 of the Education Code is amended to read:

44277. The Legislature recognizes that effective professional growth must continue to occur throughout the careers of all teachers, in order that teachers remain informed of changes in pedagogy, subject matter, and pupil needs. In enacting this section, it is the intent of the Legislature to establish professional growth requirements that give individual teachers a wide range of options to pursue as well as significant roles in determining the course of their professional growth.

(a) The minimum requirements for maintaining the validity of the clear multiple or single subject teaching credential pursuant to Section 44251 shall be both of the following:

(1) Successful service as a classroom teacher or successful service authorized by a services credential. The minimum length of service shall be equivalent to one-half of a school year.

(2) Completion of an individual program of professional growth as prescribed in this section and by the commission.

(b) An individual program of professional growth shall consist of a minimum of 150 clock hours of participation in activities that are aligned with the California Standards for the Teaching Profession that contribute to competence, performance, or effectiveness in the profession of education and the teacher's classroom assignments. Acceptable activities shall be defined by the commission to include, among other acceptable activities, the completion of courses offered by regionally accredited colleges and universities, including instructor-led interactive courses delivered through online technologies; participation in professional conferences, workshops, teacher center programs, staff development programs, or a California Reading Professional Development Program operated pursuant to Article 2 (commencing with Section 99220) of Chapter 5 of Part 65; service as a mentor teacher pursuant to Section 44496; participation in school curriculum development projects; participation in systematic programs of observation and analysis of teaching; service in a leadership role in a professional organization; and participation in educational research or innovation efforts. Employing agencies and employees' bargaining agents may negotiate to agree on the terms of programs of professional growth within their jurisdictions, provided that the agreements shall be consistent with this section.

(c) An individual program of professional growth shall be developed and planned by the holder of a clear teaching credential.

(d) Effective January 1, 1991, an individual program of professional growth may include a basic course in cardiopulmonary resuscitation, which includes training in the subdiaphragmatic abdominal thrust (also known as the "Heimlich maneuver") and meets or exceeds the standards established by the American Heart Association or the American Red Cross for courses in that subject or minimum standards for training programs established by the Emergency Medical Services Authority. Effective January 1, 2001, an individual program of professional growth may also include a course in first aid that meets or exceeds the standards established by the American Red Cross for courses in that subject or minimum standards for training programs established by the Emergency Medical Services Authority. A teacher's participation in these training options shall count towards the minimum 150 clock hours required to satisfy the professional growth requirements.

(e) Before a holder of a clear teaching credential commences or amends an individual program of professional growth, a school principal, a mentor teacher provided for in Section 44496, or other district designee shall certify to the credential holder that the planned program or amendment complies with this section and with regulations of the commission.

(f) A clear teaching credential shall be deemed to remain valid so long as the holder of the credential, at five-year intervals, submits to the commission verification by a school principal, a mentor teacher, or other district designee that the holder has satisfied the minimum requirements specified in subdivision (a). In the absence of adequate verification, the commission shall invalidate the credential. Verification by a school principal, a mentor teacher, or other district designee shall be independent of any evaluation of the performance of the holder of the clear teaching credential that is conducted for the purpose of determining the credential holder's employment status. The arbitrary refusal of a school principal, a mentor teacher, or other district designee to verify completion of an individual program of professional growth meeting the requirements of this section and commission regulations shall constitute grounds for an appeal as prescribed in Section 44278.

SEC. 1.5. Section 44277 of the Education Code is amended to read:

44277. The Legislature recognizes that effective professional growth must continue to occur throughout the careers of all teachers, in order that teachers remain informed of changes in pedagogy, subject matter, and pupil needs. In enacting this section, it is the intent of the Legislature to establish professional growth requirements that give individual teachers a wide range of options to pursue as well as significant roles in determining the course of their professional growth.

(a) The minimum requirements for maintaining the validity of the clear multiple or single subject teaching credential pursuant to Section 44251 shall be both of the following:

(1) Successful service as a classroom teacher or successful service authorized by a services credential. The minimum length of service shall be equivalent to one-half of a school year.

(2) Completion of an individual program of professional growth as prescribed in this section and by the commission.

(b) An individual program of professional growth shall consist of a minimum of 150 clock hours of participation in activities that are aligned with the California Standards for the Teaching Profession that contribute to competence, performance, or effectiveness in the profession of education and the teacher's classroom assignments. Acceptable activities shall be defined by the commission to include, among other acceptable activities, the completion of courses offered by regionally accredited colleges and universities, including instructor-led interactive courses delivered through online technologies; participation in professional conferences, workshops, teacher center programs, staff development programs, or a California Reading Professional Development Program operated pursuant to Article 2 (commencing with Section 99220) of Chapter 5 of Part 65; service as a mentor teacher pursuant to Section 44496; participation in school curriculum

development projects; participation in systematic programs of observation and analysis of teaching; service in a leadership role in a professional organization; participation in educational research or innovation efforts; and participation in tolerance training as described in Section 44670.3. Employing agencies and employees' bargaining agents may negotiate to agree on the terms of programs of professional growth within their jurisdictions, provided that the agreements shall be consistent with this section.

(c) An individual program of professional growth shall be developed and planned by the holder of a clear teaching credential.

(d) Effective January 1, 1991, an individual program of professional growth may include a basic course in cardiopulmonary resuscitation, which includes training in the subdiaphragmatic abdominal thrust (also known as the "Heimlich maneuver") and meets or exceeds the standards established by the American Heart Association or the American Red Cross for courses in that subject or minimum standards for training programs established by the Emergency Medical Services Authority. Effective January 1, 2001, an individual program of professional growth may also include a course in first aid that meets or exceeds the standards established by the American Red Cross for courses in that subject or minimum standards for training programs established by the Emergency Medical Services Authority. A teacher's participation in these training options shall count towards the minimum 150 clock hours required to satisfy the professional growth requirements.

(e) Before a holder of a clear teaching credential commences or amends an individual program of professional growth, a school principal, a mentor teacher provided for in Section 44496, or other district designee shall certify to the credential holder that the planned program or amendment complies with this section and with regulations of the commission.

(f) A clear teaching credential shall be deemed to remain valid so long as the holder of the credential, at five-year intervals, submits to the commission verification by a school principal, a mentor teacher, or other district designee that the holder has satisfied the minimum requirements specified in subdivision (a). In the absence of adequate verification, the commission shall invalidate the credential. Verification by a school principal, a mentor teacher, or other district designee shall be independent of any evaluation of the performance of the holder of the clear teaching credential that is conducted for the purpose of determining the credential holder's employment status. The arbitrary refusal of a school principal, a mentor teacher, or other district designee to verify completion of an individual program of professional growth meeting the requirements of this section and commission regulations shall constitute grounds for an appeal as prescribed in Section 44278.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 44277 of the Education Code proposed by both this bill and AB 1945. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 44277 of the Education Code, and (3) this bill is enacted after AB 1945, in which case Section 1 of this bill shall not become operative.

CHAPTER 284

An act to add Sections 27521 and 27521.1 to the Government Code, to amend Section 102870 of the Health and Safety Code, and to amend Section 14202 of the Penal Code, relating to unidentified corpses.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 27521 is added to the Government Code, to read:

27521. (a) Any postmortem examination or autopsy conducted at the discretion of a coroner upon an unidentified body or human remains shall be subject to this section.

(b) A postmortem examination or autopsy shall include, but shall not be limited to, the following procedures:

(1) Taking of all available fingerprints and palms prints.

(2) A dental examination consisting of dental charts and dental X-rays of the deceased person's teeth, which may be conducted on the body or human remains by a qualified dentist as determined by the coroner.

(3) The collection of tissue, including a hair sample, or body fluid samples for future DNA testing, if necessary.

(4) Frontal and lateral facial photographs with the scale indicated.

(5) Notation and photographs, with a scale, of significant scars, marks, tattoos, clothing items, or other personal effects found with or near the body.

(6) Notations of observations pertinent to the estimation of the time of death.

(7) Precise documentation of the location of the remains.

(c) The postmortem examination or autopsy of the unidentified body or remains may include full body X-rays.

(d) The coroner shall prepare a final report of investigation in a format established by the Department of Justice. The final report shall list or

describe the information collected pursuant to the postmortem examination or autopsy conducted under subdivision (b).

(e) The body of an unidentified deceased person may not be cremated or buried until the jaws (maxilla and mandible with teeth) and other tissue samples are retained for future possible use. Unless the coroner has determined that the body of the unidentified deceased person has suffered significant deterioration or decomposition, the jaws shall not be removed until immediately before the body is cremated or buried. The coroner shall retain the jaws and other tissue samples for one year after a positive identification is made, and no civil or criminal challenges are pending, or indefinitely.

(f) If the coroner with the aid of the dental examination and any other identifying findings is unable to establish the identity of the body or human remains, the coroner shall submit dental charts and dental X-rays of the unidentified deceased person to the Department of Justice on forms supplied by the Department of Justice within 45 days of the date the body or human remains were discovered.

(g) If the coroner with the aid of the dental examination and other identifying findings is unable to establish the identity of the body or human remains, the coroner shall submit the final report of investigation to the Department of Justice within 180 days of the date the body or human remains were discovered.

SEC. 2. Section 27521.1 is added to the Government Code, to read:

27521.1. The law enforcement agency investigating the death of an unidentified person shall report the death to the Department of Justice, in a format acceptable to the Department of Justice, no later than 10 calendar days after the date the body or human remains were discovered.

SEC. 3. Section 102870 of the Health and Safety Code is amended to read:

102870. (a) In deaths investigated by the coroner or medical examiner where he or she is unable to establish the identity of the body or human remains by visual means, fingerprints, or other identifying data, the coroner or medical examiner may have a qualified dentist, as determined by the coroner or medical examiner, carry out a dental examination of the body or human remains. If the coroner or medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward the dental examination records to the Department of Justice on forms supplied by the Department of Justice for that purpose.

(b) The Department of Justice shall act as a repository or computer center, or both, with respect to dental examination records and the final report of investigation specified in Section 27521 of the Government Code. The Department of Justice shall compare the dental examination

records and the final report of investigation, if applicable, to records filed with the Violent Crime Information Center (Title 12 (commencing with Section 14200) of Part 4 of the Penal Code), shall determine which scoring probabilities are the highest for purposes of identification, and shall submit the information to the coroner or medical examiner who submitted the dental examination records and the final report of investigation, if applicable.

SEC. 4. Section 14202 of the Penal Code is amended to read:

14202. (a) The Attorney General shall establish and maintain within the center an investigative support unit and an automated violent crime method of operation system to facilitate the identification and apprehension of persons responsible for murder, kidnap, including parental abduction, false imprisonment, or sexual assault. This unit shall be responsible for identifying perpetrators of violent felonies collected from the center and analyzing and comparing data on missing persons in order to determine possible leads which could assist local law enforcement agencies. This unit shall only release information about active investigations by police and sheriffs' departments to local law enforcement agencies.

(b) The Attorney General shall make available to the investigative support unit files organized by category of offender or victim and shall seek information from other files as needed by the unit. This set of files may include, among others, the following:

(1) Missing or unidentified, deceased persons dental files filed pursuant to this title, Section 27521 of the Government Code, or Section 102870 of the Health and Safety Code.

(2) Child abuse reports filed pursuant to Section 11169.

(3) Sex offender registration files maintained pursuant to Section 290.

(4) State summary criminal history information maintained pursuant to Section 11105.

(5) Information obtained pursuant to the parent locator service maintained pursuant to Section 11478.5 of the Welfare and Institutions Code.

(6) Information furnished to the Department of Justice pursuant to Section 11107.

(7) Other Attorney General's office files as requested by the investigative support unit.

This section shall become operative on July 1, 1989.

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 285

An act to amend Sections 89304, 89701, 89702, 89704, 90000, 90001, and 90011 of, to add Section 89703 to, and to repeal Section 89702.1 of, the Education Code, relating to the California State University, and making an appropriation therefor.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 89304 of the Education Code is amended to read:

89304. (a) Upon the favorable vote of two-thirds of the students voting in an election held for the purpose at a state university, in the manner the trustees shall prescribe, and open to all regular students enrolled in the state university, the trustees are authorized to establish, in addition to any other student fee the trustees are authorized to establish, a building and operating fee, not to exceed forty dollars ($40) per student per academic year, which shall be required of all students attending the state university. All unexpended funds and money collected by any state university under this section shall be available for financing, operating, and constructing a student body center. All unexpended funds collected by any state university under this section shall be deposited or invested in trust by the chief fiscal officer of that state university in any one or more of the following ways:

(1) Deposits in trust accounts of the centralized treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the California State University Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(2) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, if the associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(3) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the Treasurer in those securities.

(4) Participation in funds that are exempt from federal income tax pursuant to Section 501(c)(3) of Title 26 of the United States Code and that are open exclusively to nonprofit colleges, universities, and independent schools.

(5) Investment certificates or withdrawable shares in federal or state credit unions, if the credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by that insurance.

(b) All revenues received by the trustees under this section may be pledged for the acquisition, construction, and improvement of student body center projects pursuant to the State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8), and may also be pledged to supplement other revenue funded projects relating to debt obligations issued by the trustees pursuant to the State University Revenue Bond Act of 1947. Nothing in this section shall be construed as altering or permitting a change in the pledge of student body center fee revenues established in connection with debt obligations issued prior to the enactment of this section and pursuant to the State University Revenue Bond Act of 1947.

(c) The chief fiscal officer of each state university shall be custodian funds collected by a state university under this section, and shall provide the necessary accounting records and controls thereof.

The state university shall be reimbursed from these funds in an amount to cover the cost of the custodial and accounting services provided by the state university in connection with these funds.

(d) The funds collected by a state university under this section may be expended by the custodian only upon the submission of an appropriate claim schedule by an elected representative of the student body or his or her appointee.

SEC. 2. Section 89701 of the Education Code is amended to read:

89701. (a) The trustees are authorized to acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code) or by lease or other means, real property and to construct, operate, and maintain motor vehicle parking facilities and other transportation facilities thereon for state university officers, employees, students, or other persons. The trustees may prescribe the terms and conditions of the parking, and of parking on facilities existing on the effective date of this section, including the payment of parking fees in the amounts and under the circumstances determined by the trustees. Varying rates of parking fees

may be established for different localities or for different parking facilities and for the purposes authorized by subdivision (b). In determining rates of parking fees, the trustees may consider the rates charged in the same locality by other public agencies and by private employers for employee parking, the rates charged to students by other universities and colleges.

(b) (1) Except as otherwise provided in this section, revenues received by the trustees from any of the motor vehicle parking facilities, as well as from all parking facilities existing on the effective date of this section, may be transmitted to the Treasurer and, if transmitted, shall be deposited by that officer in the State Treasury to the credit of the State University Parking Revenue Fund, which is hereby created.

(2) All revenues received by the trustees under this section may be pledged for the acquisition, construction, and improvement of parking and other transportation facilities, and may also be pledged to supplement other revenue funded projects relating to debt obligations issued by the trustees pursuant to the State University Revenue Bond Act of 1947. Nothing in this section shall be construed as altering or permitting a change in the pledge of parking fee revenues established in connection with debt obligations issued prior to the enactment of this section and pursuant to the State University Revenue Bond Act of 1947.

(3) All revenues received by the trustees from parking facilities, to the extent not pledged in connection with bonds or notes issued pursuant to the State University Revenue Bond Act of 1947, are hereby appropriated, without regard to fiscal years, to the trustees for the acquisition, construction, operation, and maintenance of motor vehicle parking facilities on real property acquired hereunder or on real property otherwise under the jurisdiction of the trustees, and for the study, development, enhancement, operation, and maintenance of alternate methods of transportation for officers, students, and employees of the California State University.

(4) The trustees shall allocate the funds for the construction of parking facilities for each of the California State University campuses only after programs incorporating alternate methods of transportation have been thoroughly investigated and considered, as determined by the alternative transportation committees of each campus and the trustees, in consultation with students and local government officials.

(5) Moneys in the State University Parking Revenue Fund may be invested by the Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to the investments shall be deposited to the credit of the State University Parking Revenue Fund.

(c) The Legislature, by this section, does not intend to authorize the institution of a private parking program unrelated to state purposes in competition with private industry.

(d) If any provision of this section is in conflict with any provision of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if one or more provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 3. Section 89702 of the Education Code is amended to read:

89702. (a) The Trustees of the California State University may acquire, pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code) or by lease or other means, real property and may construct and improve student health centers entirely or in part by the use of funds acquired pursuant to this section.

(b) The trustees may prescribe under Section 89700 a fee to provide for the acquisition, construction, and improvement of student health center facilities, in the amounts and under the circumstances as may be determined by the trustees.

(c) (1) Except as otherwise provided in this section, revenues received by the trustees from the student health center facilities fee may be transmitted to the Treasurer and, if transmitted, shall be deposited by that officer in the State Treasury to the credit of the State University Facilities Revenue Fund, which is hereby created.

(2) All revenues received by the trustees under this section may be pledged for the acquisition, construction, and improvement of student health facilities projects pursuant to the State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8), and may also be pledged to supplement other revenue funded projects relating to debt obligations issued by the trustees pursuant to the State University Revenue Bond Act of 1947. Nothing in this section shall be construed as altering or permitting a change in the pledge of student health facility fee revenues established in connection with debt obligations issued prior to the enactment of this section and pursuant to the State University Revenue Bond Act of 1947.

(3) All revenues received by the trustees from the facilities fee, to the extent not pledged in connection with bonds or notes issued pursuant to the State University Revenue Bond Act of 1947, are hereby appropriated, without regard to fiscal years, to the trustees for the acquisition, construction, and improvement of student health centers on

real property acquired pursuant to this section or on real property otherwise under the jurisdiction of the trustees.

(4) Moneys in the State University Facilities Revenue Fund may be invested by the Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to the investments shall be deposited to the credit of the State University Facilities Revenue Fund.

SEC. 4. Section 89702.1 of the Education Code is repealed.

SEC. 5. Section 89703 is added to the Education Code, to read:

89703. (a) The trustees may prescribe student housing rental rates and fees to provide revenues for student housing programs in the amounts and under the circumstances that are determined by the trustees.

(b) (1) The trustees may pledge all or any part of student housing revenues in connection with bonds or notes issued pursuant to State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8), in which case the revenues shall be deposited, transmitted, and used in the manner provided by that act.

(2) All revenues received by the trustees from housing rental rates and fees under this section may be pledged for the acquisition, construction, and improvement of student housing projects, and may also be pledged to supplement other revenue funded projects relating to debt obligations issued by the trustees pursuant to the State University Revenue Bond Act of 1947. Nothing in this section shall be construed as altering or permitting a change in the pledge of housing rental revenues established in connection with debt obligations issued prior to the enactment of this section and pursuant to the State University Revenue Bond Act of 1947.

SEC. 6. Section 89704 of the Education Code is amended to read:

89704. (a) Notwithstanding any other provision of law, revenues received by the Trustees of the California State University from extension programs, special session, and other self-supporting instructional programs, including but not limited to, fees and charges required by the trustees, may be transmitted to the Treasurer and, if transmitted, shall be deposited by that officer in the State Treasury to the credit of the State University Continuing Education Revenue Fund, which is hereby created, and which is hereby designated as successor to the State College Extension Program Revenue Fund.

(b) All revenues are hereby appropriated, without regard to fiscal years, to the trustees for the support and development of self-supporting instructional programs of the California State University. However, proposed expenditures or obligations to be incurred during any fiscal year from the State University Continuing Education Revenue Fund, other than expenditures or obligations authorized by subdivision (d), shall be contained in the budget submitted for that fiscal year by the Governor pursuant to Section 12 of Article IV of the Constitution, and

shall be subject to Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

(c) Moneys in the State University Continuing Education Revenue Fund may be invested by the Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to the investments shall be deposited to the credit of the State University Continuing Education Revenue Fund.

(d) All revenues received by the trustees under this section may be pledged for the acquisition, construction, and improvement of facilities for extension programs, special session, and other self-supporting instructional programs pursuant to the State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8), and may also be pledged to supplement other revenue funded projects relating to debt obligations issued by the trustees pursuant to the State University Revenue Bond Act of 1947.

SEC. 7. Section 90000 of the Education Code is amended to read:

90000. Student housing facilities may be established and maintained at any state university for the accommodation of students of the university.

SEC. 8. Section 90001 of the Education Code is amended to read:

90001. The trustees may require unmarried minor students of the state university, not living with a parent or guardian, to reside in private homes or other dwellings approved by the university, or to occupy student housing facilities provided at the university by the state.

SEC. 9. Section 90011 of the Education Code is amended to read:

90011. (a) The following terms wherever used or referred to in this article, or in any indenture entered into pursuant hereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

(1) ''Board'' means the Trustees of the California State University.

(2) ''Bonds'' or ''revenue bonds'' means the written evidence of any obligation, other than revenue bond anticipation notes, issued by the board, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this article, irrespective of the form of the obligations.

(3) The ''holder of bonds'' or ''bondholder'' or any similar term means any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any outstanding revenue bond or bond that shall at the time be registered other than to the bearer.

(4) ''Indenture'' means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether the

agreement is expressed in the form of a resolution of the board or by other instrument.

(5) ''Notes'' and ''revenue bond anticipation notes'' mean the written evidence of any obligation issued by the board, pursuant to Section 90013, in anticipation of the sale of revenue bonds, for the purpose of obtaining funds to carry out the purposes of this article.

(6) ''Person'' includes any individual, firm, corporation, association, copartnership, trust, business trust or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district, or any agency thereof or of this state.

(7) ''Project'' means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities, alternative transportation programs, or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped, and operated by the board for use by students, faculty members, or other employees of any one or more campuses of the California State University, or a combination of those facilities, which may include facilities already completed and facilities authorized for future completion, or any other facilities designated by the board as a project in providing for the issuance of revenue bonds or notes.

(8) ''Revenues'' mean and include any and all fees, rates, rentals, and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the board from the operation of, or arising from, a project, including any revenue that may have been, or may be, impounded or deposited in any fund in the State Treasury created by this article or in any other fund or account pursuant to law for the security of any notes or bonds issued hereunder, or for the purpose of providing for the payment thereof, or the interest thereon.

(9) ''State university'' and ''campus of the California State University'' means any of the institutions included within the California State University, as listed in Section 89001.

(b) As used in this article:

(1) The present tense includes the past and future tenses, and the future tense includes the present tense.

(2) The masculine gender includes the feminine and neuter.

(3) The singular number includes the plural, and the plural includes the singular.

(4) ''Shall'' is mandatory, and ''may'' is permissive.

SEC. 10. It is the intent of the Legislature that, in enacting this act, the financial plan for each individual project funded under the authority

provided by the State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010) of Chapter 8 of Part 55 of the Education Code) illustrates that the project will generate revenue sufficient to pay the debt service costs associated with the project.

CHAPTER 286

An act to amend Section 56045 of, and to add Article 8 (commencing with Section 56845) to Chapter 7.2 of Part 30 of, the Education Code, relating to special education.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 56045 of the Education Code is amended to read:

56045. (a) The superintendent shall send a notice to the governing board of each local education agency within 30 days of when the superintendent determines any of the following:

(1) The district, special education local plan area, or county office is substantially out of compliance with one or more significant provisions of this part, its implementing regulations, provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or its implementing regulations.

(2) The district, special education local plan area, or county office fails to comply substantially with corrective action orders issued by the department resulting from focused monitoring findings or complaint investigations.

(3) The district, special education local plan area, or county office fails to implement the decision of a due process hearing officer for noncompliance with provisions of this part, its implementing regulations, provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or its implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free and appropriate public education for an individual with exceptional needs.

(b) The notice shall provide a description of the special education and related services that are required by law and with which the district, special education local plan area, or county office is not in compliance.

(c) 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. 2. Article 8 (commencing with Section 56845) is added to Chapter 7.2 of Part 30 of the Education Code, to read:

Article 8. Withholding of Payments

56845. (a) The superintendent may withhold, in whole or in part, state funds or federal funds allocated under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) from a district, special education local plan area, or county office after reasonable notice and opportunity for a hearing if the superintendent finds either of the following:

(1) The district, special education local plan area, or county office failed to comply substantially with a provision of state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs which results in the failure to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

(2) The district, special education local plan area, or county office failed to implement the decision of a due process hearing officer based on noncompliance with provisions of this part, its implementing regulations, provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or its implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free and appropriate public education for an individual with exceptional needs.

(b) When the superintendent determines that a district, special education local plan area, or county office made substantial progress toward compliance with state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs, the superintendent may apportion the state or federal funds withheld from the district, special education local plan area, or county office.

(c) Notwithstanding any other provision of law, state funds may not be allocated to offset any federal funding intended for individuals with exceptional needs, as defined in Section 56026, and withheld from a local educational agency due to the agency's noncompliance with state or federal law.

(d) For purposes of this section, in order to enter into contracts with one or more local education agencies to serve individuals with exceptional needs who are not being served as required under this part,

the department 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.

CHAPTER 287

An act to amend Section 1560 of the Evidence Code, to amend Sections 190.9, 209, 266c, 273.5, 289.6, 290, 347, 600, 667.71, 832.6, 976.5, 999*l*, 1170.11, 1170.17, 1174.4, 1240.1, 2933.5, 3046, 11160, 11165.1, 12020, 12022.53, and 12280 of the Penal Code, and to amend Sections 21221.5 and 23612 of the Vehicle Code, and to amend Sections 727.4 and 15610.63 of, and to amend and renumber Section 727.2 of, the Welfare and Institutions Code, relating to public safety.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 1560 of the Evidence Code is amended to read:

1560. (a) As used in this article:

(1) ''Business'' includes every kind of business described in Section 1270.

(2) ''Record'' includes every kind of record maintained by a business.

(b) Except as provided in Section 1564, when a subpoena duces tecum is served upon the custodian of records or other qualified witness of a business in an action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness, within five days after the receipt of the subpoena in any criminal action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, or within 15 days after the receipt of the subpoena in any civil action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, delivers by mail or otherwise a true, legible, and durable copy of all the records described in the subpoena to the clerk of the court or to the judge if there be no clerk or to another person described in subdivision (c) of Section 2026 of the Code of Civil Procedure, together with the affidavit described in Section 1561.

(c) The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of the court, or to the judge thereof if there be no clerk.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition or at the officer's place of business.

(3) In other cases, to the officer, body, or tribunal conducting the hearing, at a like address.

(d) Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or other hearing, upon the direction of the judge, officer, body, or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition, or hearing. Records which are original documents and which are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom received. Records which are copies may be destroyed.

(e) As an alternative to the procedures described in subdivisions (b), (c), and (d), the subpoenaing party may direct the witness to make the records available for inspection or copying by the party's attorney, the attorney's representative, or deposition officer as described in paragraph (3) of subdivision (d) of Section 2020 of the Code of Civil Procedure, at the witness' business address under reasonable conditions during normal business hours. Normal business hours, as used in this subdivision, means those hours that the business of the witness is normally open for business to the public. When provided with at least five business days' advance notice by the party's attorney, attorney's representative, or deposition officer, the witness shall designate a time period of not less than six continuous hours on a date certain for copying of records subject to the subpoena by the party's attorney, attorney's representative or deposition officer. It shall be the responsibility of the attorney's representative to deliver any copy of the records as directed in the subpoena. Disobedience to the deposition subpoena issued pursuant to this subdivision is punishable as provided in subdivision (h) of Section 2020 of the Code of Civil Procedure.

SEC. 2. Section 190.9 of the Penal Code is amended to read:

190.9. (a) (1) In any case in which a death sentence may be imposed, all proceedings conducted in the municipal and superior

courts, including all conferences and proceedings, whether in open court, in conference in the courtroom, or in chambers, shall be conducted on the record with a court reporter present. The court reporter shall prepare and certify a daily transcript of all proceedings commencing with the preliminary hearing. Proceedings prior to the preliminary hearing shall be reported but need not be transcribed until the municipal or superior court receives notice as prescribed in paragraph (2) of subdivision (a).

(2) Upon receiving notification from the prosecution that the death penalty is being sought, the superior court shall notify the court in which the preliminary hearing took place. Upon this notification, the court in which the preliminary hearing took place shall order the transcription and preparation of the record of all proceedings prior to and including the preliminary hearing in the manner prescribed by the Judicial Council in the rules of court. The record of all proceedings prior to and including the preliminary hearing shall be certified by the court no later than 120 days following notification by the superior court unless the superior court grants an extension of time pursuant to rules of court adopted by the Judicial Council. Upon certification, the court in which the preliminary hearing took place shall forward the record to the superior court for incorporation into the superior court record.

(b) (1) The court shall assign a court reporter who uses computer-aided transcription equipment to report all proceedings under this section.

(2) Failure to comply with the requirements of this section relating to the assignment of court reporters who use computer-aided transcription equipment shall not be a ground for reversal.

(c) Any computer-readable transcript produced by court reporters pursuant to this section shall conform to the requirements of subdivision (c) of Section 269 of the Code of Civil Procedure.

SEC. 3. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.

(b) (1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or sexual penetration in violation of Section 289, shall be punished by imprisonment in the state prison for life with possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) shall not be construed to supersede or affect Section 667.61. A person may be charged with a violation of subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.

SEC. 4. Section 266c of the Penal Code is amended to read:

266c. Every person who induces any other person to engage in sexual intercourse, sexual penetration, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in a county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, ''fear'' means the fear of physical injury or death to the person or to any relative of the person or member of the person's family.

SEC. 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 1203.097, 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. 6. Section 289.6 of the Penal Code is amended to read:

289.6. (a) (1) An employee or officer of a public entity health facility, or an employee, officer, or agent of a private person or entity that provides a health facility or staff for a health facility under contract with a public entity, who engages in sexual activity with a consenting adult who is confined in a health facility is guilty of a public offense. As used in this paragraph, ''health facility'' means a health facility as defined in subdivisions (b), (e), (g), (h), and (j), and subparagraph (C) of paragraph (2) of subdivision (i) of Section 1250 of the Health and Safety Code, in which the victim has been confined involuntarily.

(2) An employee or officer of a public entity detention facility, or an employee, officer, or agent of a private person or entity that provides a detention facility or staff for a detention facility, or person or agent of a public or private entity under contract with a detention facility, or a volunteer of a private or public entity detention facility, who engages in sexual activity with a consenting adult who is confined in a detention facility, is guilty of a public offense.

(3) An employee with a department, board, or authority under the Youth and Adult Correctional Agency or a facility under contract with a department, board, or authority under the Youth and Adult Correctional Agency, who, during the course of his or her employment directly provides treatment, care, control, or supervision of inmates, wards, or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward, or parolee, is guilty of a public offense.

(b) As used in this section, the term ''public entity'' means the state, federal government, a city, a county, a city and county, a joint county jail district, or any entity created as a result of a joint powers agreement between two or more public entities.

(c) As used in this section, the term ''detention facility'' means:

(1) A prison, jail, camp, or other correctional facility used for the confinement of adults or both adults and minors.

(2) A building or facility used for the confinement of adults or adults and minors pursuant to a contract with a public entity.

(3) A room that is used for holding persons for interviews, interrogations, or investigations and that is separate from a jail or located in the administrative area of a law enforcement facility.

(4) A vehicle used to transport confined persons during their period of confinement.

(5) A court holding facility located within or adjacent to a court building that is used for the confinement of persons for the purpose of court appearances.

(d) As used in this section, ''sexual activity'' means:

(1) Sexual intercourse.

(2) Sodomy, as defined in subdivision (a) of Section 286.

(3) Oral copulation, as defined in subdivision (a) of Section 288a.

(4) Sexual penetration, as defined in subdivision (k) of Section 289.

(5) The rubbing or touching of the breasts or sexual organs of another, or of oneself in the presence of and with knowledge of another, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of oneself or another.

(e) Consent by a confined person or parolee to sexual activity proscribed by this section is not a defense to a criminal prosecution for violation of this section.

(f) This section does not apply to sexual activity between consenting adults that occurs during an overnight conjugal visit that takes place pursuant to a court order or with the written approval of an authorized representative of the public entity that operates or contracts for the operation of the detention facility where the conjugal visit takes place, to physical contact or penetration made pursuant to a lawful search, or bona fide medical examinations or treatments, including clinical treatments.

(g) Any violation of paragraph (1) of subdivision (a), or a violation of paragraph (2) or (3) of subdivision (a) as described in paragraph (5) of subdivision (d), is a misdemeanor.

(h) Any violation of paragraph (2) or (3) of subdivision (a), as described in paragraph (1), (2), (3), or (4) of subdivision (d), shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison, or by a fine of not more than ten thousand dollars ($10,000) or by both that fine and imprisonment.

(i) Any person previously convicted of a violation of this section shall, upon a subsequent violation, be guilty of a felony.

(j) Anyone who is convicted of a felony violation of this section who is employed by a department, board, or authority within the Youth and

Adult Correctional Agency shall be terminated in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Title 2 of Division 5 of the Government Code). Anyone who has been convicted of a felony violation of this section shall not be eligible to be hired or reinstated by a department, board, or authority within the Youth and Adult Correctional Agency.

SEC. 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 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) (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 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. 8. Section 347 of the Penal Code is amended to read:

347. (a) (1) Every person who willfully mingles any poison or harmful substance with any food, drink, medicine, or pharmaceutical product or who willfully places any poison or harmful substance in any spring, well, reservoir, or public water supply, where the person knows or should have known that the same would be taken by any human being to his or her injury, is guilty of a felony punishable by imprisonment in the state prison for two, four, or five years.

(2) Any violation of paragraph (1) involving the use of a poison or harmful substance that may cause death if ingested or that causes the infliction of great bodily injury on any person shall be punished by an additional term of three years.

(b) Any person who maliciously informs any other person that a poison or other harmful substance has been or will be placed in any food, drink, medicine, pharmaceutical product, or public water supply, knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or by imprisonment in the county jail not to exceed one year.

(c) The court may impose the maximum fine for each item tampered with in violation of subdivision (a).

SEC. 9. Section 600 of the Penal Code is amended to read:

600. (a) Any person who willfully and maliciously and with no legal justification strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers any poison or other harmful or stupefying substance to, or throws, hurls, or projects at, or places any rock, object, or other substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, any horse being used by, or any dog under the supervision of, any peace officer in the discharge or attempted discharge of his or her duties, is guilty of a public offense. If the injury inflicted is a serious injury, as defined in subdivision (c), the person shall be punished by imprisonment in the state prison for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both a fine and imprisonment.

(b) Any person who willfully and maliciously and with no legal justification interferes with or obstructs any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties by frightening, teasing, agitating, harassing, or hindering the horse or dog shall be punished by imprisonment in a county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both a fine and imprisonment.

(c) Any person who, in violation of this section, and with intent to inflict such injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily member, wounds requiring extensive suturing, or serious crippling, of any horse or dog, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for one year.

(d) Any person who, in violation of this section, and with the intent to inflict such injury, personally causes great bodily injury, as defined in Section 12022.7, to any person not an accomplice, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for two years unless the conduct described in this subdivision is an element of any other offense of which the person is convicted or receives an enhancement under Section 12022.7.

(e) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the agency owning the animal and employing the peace officer for any veterinary

bills, replacement costs of the animal if it is disabled or killed, and the salary of the peace officer for the period of time his or her services are lost to the agency.

SEC. 10. Section 667.71 of the Penal Code is amended to read:

667.71. (a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses listed in subdivision (c) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender is punishable by imprisonment in the state prison for 25 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 25 years in the state prison imposed pursuant to this section. However, in no case shall the minimum term of 25 years be reduced by more than 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 years in the state prison.

(c) This section shall apply to any of the following offenses:

(1) A violation of paragraph (2) of subdivision (a) of Section 261.

(2) A violation of paragraph (1) of subdivision (a) of Section 262.

(3) A violation of Section 264.1.

(4) A violation of subdivision (a) or (b) of Section 288.

(5) A violation of subdivision (a) of Section 289.

(6) A violation of Section 288.5.

(7) A violation of subdivision (c) of Section 286 by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(8) A violation of subdivision (d) of Section 286.

(9) A violation of subdivision (c) or (d) of Section 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(10) A violation of subdivision (b) of Section 207.

(11) A violation of former subdivision (d) of Section 208 (kidnapping to commit specified sex offenses).

(12) Kidnapping in violation of Section 209 with the intent to commit rape, spousal rape, oral copulation, or sodomy or sexual penetration in violation of Section 289.

(13) A violation of Section 269.

(14) An offense committed in another jurisdiction that has all the elements of an offense specified in paragraphs (1) to (13), inclusive, of this subdivision.

(d) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the information, and either admitted by the

defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by court sitting without a jury.

SEC. 11. Section 832.6 of the Penal Code is amended to read:

832.6. (a) Every person deputized or appointed, as described in subdivision (a) of Section 830.6, shall have the powers of a peace officer only when the person is any of the following:

(1) A level I reserve officer deputized or appointed pursuant to paragraph (1) or (2) of subdivision (a) or subdivision (b) of Section 830.6 and assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training. For level I reserve officers appointed prior to January 1, 1997, the basic training requirement shall be the course that was prescribed at the time of their appointment. Reserve officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the commission.

(2) A level II reserve officer assigned to the prevention and detection of crime and the general enforcement of the laws of this state while under the immediate supervision of a peace officer who has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training, and the level II reserve officer has completed the course required by Section 832 and any other training prescribed by the commission.

Level II reserve officers appointed pursuant to this paragraph may be assigned, without immediate supervision, to those limited duties that are authorized for level III reserve officers pursuant to paragraph (3). Reserve officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the commission.

(3) Level III reserve officers may be deployed and are authorized only to carry out limited support duties not requiring general law enforcement powers in their routine performance. Those limited duties shall include traffic control, security at parades and sporting events, report taking, evidence transportation, parking enforcement, and other duties that are not likely to result in physical arrests. Level III reserve officers while assigned these duties shall be supervised in the accessible vicinity by a level I reserve officer or a full-time, regular peace officer employed by a law enforcement agency authorized to have reserve officers. Level III reserve officers may transport prisoners without immediate supervision. Those persons shall have completed the training required under Section 832 and any other training prescribed by the commission for those persons.

(4) A person assigned to the prevention and detection of a particular crime or crimes or to the detection or apprehension of a particular individual or individuals while working under the supervision of a California peace officer in a county adjacent to the state border who possesses a basic certificate issued by the Commission on Peace Officer Standards and Training, and the person is a law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and has completed the basic training required for peace officers in his or her state.

(5) For purposes of this section, a reserve officer who has previously satisfied the training requirements pursuant to this section, and has served as a level I or II reserve officer within the three-year period prior to the date of a new appointment shall be deemed to remain qualified as to the Commission on Peace Officer Standards and Training requirements if that reserve officer accepts a new appointment at the same or lower level with another law enforcement agency. If the reserve officer has more than a three-year break in service, he or she shall satisfy current training requirements.

This training shall fully satisfy any other training requirements required by law, including those specified in Section 832.

In no case shall a peace officer of an adjoining state provide services within a California jurisdiction during any period in which the regular law enforcement agency of the jurisdiction is involved in a labor dispute.

(b) Notwithstanding subdivision (a), a person who is issued a level I reserve officer certificate before January 1, 1981, shall have the full powers and duties of a peace officer as provided by Section 830.1 if so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, if the appointing authority determines the person is qualified to perform general law enforcement duties by reason of the person's training and experience. Persons who were qualified to be issued the level I reserve officer certificate before January 1, 1981, and who state in writing under penalty of perjury that they applied for but were not issued the certificate before January 1, 1981, may be issued the certificate before July 1, 1984. For purposes of this section, certificates so issued shall be deemed to have the full force and effect of any level I reserve officer certificate issued prior to January 1, 1981.

(c) In carrying out this section, the commission:

(1) May use proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(3) Shall establish a professional certificate for reserve officers as defined in paragraph (1) of subdivision (a) and may establish a professional certificate for reserve officers as defined in paragraphs (2) and (3) of subdivision (a).

(4) Shall facilitate the voluntary transition of reserve officers to regular officers with no unnecessary redundancy between the training required for level I and level II reserve officers.

(5) Shall develop a supplemental course for existing level I reserve officers desiring to satisfy the basic training course for deputy sheriffs and police officers.

(d) In carrying out paragraphs (1) and (3) of subdivision (c), the commission may establish and levy appropriate fees, provided the fees do not exceed the cost for administering the respective services. These fees shall be deposited in the Peace Officers' Training Fund established by Section 13520.

(e) The commission shall include an amount in its annual budget request to carry out this section.

SEC. 12. Section 976.5 of the Penal Code is amended to read:

976.5. (a) Notwithstanding any other provision of law, when an accusatory pleading is filed in Sierra County and the defendant is in the custody of Nevada County, he or she may be arraigned before a court in Nevada County.

(b) This section shall not interfere with the right of a defendant to demur to an accusatory pleading, as specified in Chapter 3 (commencing with Section 1002) of Title 6.

(c) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

SEC. 13. Section 999*l* of the Penal Code is amended to read:

999*l*. (a) An individual shall be the subject of a repeat sexual offender prosecution effort who is under arrest for the commission or attempted commission of one or more of the following offenses: assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264.1, Section 288, or Section 289; rape, in violation of Section 261; sexual battery, in violation of Section 243.4; sodomy, in violation of Section 286; lewd acts on a child under 14, in violation of Section 288; oral copulation, in violation of Section 288a; sexual penetration, in violation of Section 289; and (1) who is being prosecuted for offenses involving two or more separate victims, or (2) who is being prosecuted for the commission or attempted commission of three or more separate offenses not arising out of the same transaction involving one or more of the above-listed offenses, or (3) who has suffered at least one conviction during the preceding 10 years for any of the above-listed offenses. For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison or in a state hospital pursuant to a commitment as a mentally disordered sex offender.

(b) In applying the repeat sexual offender selection criteria set forth above: (1) a district attorney may elect to limit repeat sexual offender prosecution efforts to persons arrested for any one or more of the offenses listed in subdivision (a) if crime statistics demonstrate that the incidence of such one or more offenses presents a particularly serious problem in the county; (2) a district attorney shall not reject cases for filing exclusively on the basis that there is a family or personal relationship between the victim and the alleged offender.

(c) In exercising the prosecutorial discretion granted by Section 999n, the district attorney shall consider the following: (1) the character, the background, and prior criminal background of the defendant, and (2) the number and seriousness of the offenses currently charged against the defendant.

SEC. 14. 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, 186.26, 186.33, 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. 15. Section 1170.17 of the Penal Code is amended to read:

1170.17. (a) When a person is prosecuted for a criminal offense committed while he or she was under the age of 18 years and the prosecution is lawfully initiated in a court of criminal jurisdiction without a prior finding that the person is not a fit and proper subject to be dealt with under the juvenile court law, upon subsequent conviction for any criminal offense, the person shall be subject to the same sentence as an adult convicted of the identical offense, in accordance with the provisions set forth in subdivision (a) of Section 1170.19, except under the circumstances described in subdivision (b) or (c).

(b) Where the conviction is for the type of offense which, in combination with the person's age at the time the offense was committed, makes the person eligible for transfer to a court of criminal jurisdiction, pursuant to a rebuttable presumption that the person is not a fit and proper subject to be dealt with under the juvenile court law, and

the prosecution for the offense could not lawfully be initiated in a court of criminal jurisdiction, then either of the following shall apply:

(1) The person shall be subject to the same sentence as an adult convicted of the identical offense in accordance with the provisions set forth in subdivision (a) of Section 1170.19, unless the person prevails upon a motion brought pursuant to paragraph (2).

(2) Upon a motion brought by the person, the court shall order the probation department to prepare a written social study and recommendation concerning the person's fitness to be dealt with under the juvenile court law and the court shall either conduct a fitness hearing or suspend proceedings and remand the matter to the juvenile court to prepare a social study and make a determination of fitness. The person shall receive a disposition under the juvenile court law only if the person demonstrates, by a preponderance of the evidence, that he or she is a fit and proper subject to be dealt with under the juvenile court law, based upon each of the following five criteria:

(A) The degree of criminal sophistication exhibited by the person.

(B) Whether the person can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The person's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the person.

(E) The circumstances and gravity of the offense for which the person has been convicted.

If the court conducting the fitness hearing finds that the person is not a fit and proper subject for juvenile court jurisdiction, then the person shall be sentenced by the court where he or she was convicted, in accordance with the provisions of paragraph (1). If the court conducting the hearing on fitness finds that the person is a fit and proper subject for juvenile court jurisdiction, then the person shall be subject to a disposition in accordance with the provisions of subdivision (b) of Section 1170.19.

(c) Where the conviction is for the type of offense which, in combination with the person's age at the time the offense was committed, makes the person eligible for transfer to a court of criminal jurisdiction, pursuant to a rebuttable presumption that the person is a fit and proper subject to be dealt with under the juvenile court law, then the person shall be sentenced as follows:

(1) The person shall be subject to a disposition under the juvenile court law, in accordance with the provisions of subdivision (b) of Section 1170.19, unless the district attorney prevails upon a motion, as described in paragraph (2).

(2) Upon a motion brought by the district attorney, the court shall order the probation department to prepare a written social study and

recommendation concerning whether the person is a fit and proper subject to be dealt with under the juvenile court law. The court shall either conduct a fitness hearing or suspend proceedings and remand the matter to the juvenile court for a determination of fitness. The person shall be subject to a juvenile disposition under the juvenile court law unless the district attorney demonstrates, by a preponderance of the evidence, that the person is not a fit and proper subject to be dealt with under the juvenile court law, based upon the five criteria set forth in paragraph (2) of subdivision (b). If the person is found to be not a fit and proper subject to be dealt with under the juvenile court law, then the person shall be sentenced in the court where he or she was convicted, in accordance with the provisions set forth in subdivision (a) of Section 1170.19. If the person is found to be a fit and proper subject to be dealt with under the juvenile court law, the person shall be subject to a disposition, in accordance with the provisions of subdivision (b) of Section 1170.19.

(d) Where the conviction is for the type of offense which, in combination with the person's age, does not make the person eligible for transfer to a court of criminal jurisdiction, the person shall be subject to a disposition in accordance with the provisions of subdivision (b) of Section 1170.19.

SEC. 16. Section 1174.4 of the Penal Code is amended to read:

1174.4. (a) Persons eligible for participation in this alternative sentencing program shall meet all of the following criteria:

(1) Pregnant women with an established history of substance abuse, or pregnant or parenting women with an established history of substance abuse who have one or more children under six years old at the time of entry into the program. For women with children, at least one eligible child shall reside with the mother in the facility.

(2) Never served a prior prison term for, nor been convicted in the present proceeding of, committing or attempting to commit, any of the following offenses:

(A) Murder or voluntary manslaughter.

(B) Mayhem.

(C) Rape.

(D) Kidnapping.

(E) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(F) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(G) Lewd acts on a child under 14 years of age, as defined in Section 288.

(H) Any felony punishable by death or imprisonment in the state prison for life.

(I) Any felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7 or 12022.9, or any felony in which the defendant uses a firearm, as provided in Section 12022.5, 12022.53, or 12022.55, in which the use has been charged and proved.

(J) Robbery.

(K) Any robbery perpetrated in an inhabited dwelling house or trailer coach as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(L) Arson in violation of subdivision (a) of Section 451.

(M) Sexual penetration in violation of subdivision (a) of Section 289 if the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(N) Rape or sexual penetration in concert, in violation of Section 264.1.

(O) Continual sexual abuse of a child in violation of Section 288.5.

(P) Assault with intent to commit mayhem, rape, sodomy, oral copulation, rape in concert, with another, lascivious acts upon a child, or penetration by a foreign object.

(Q) Assault with a deadly weapon or with force likely to produce great bodily injury in violation of subdivision (a) of Section 245.

(R) Any violent felony defined in Section 667.5.

(S) A violation of Section 12022.

(T) A violation of Section 12308.

(U) Burglary of the first degree.

(V) A violation of Section 11351, 11351.5, 11352, 11353, 11358, 11359, 11360, 11370.1, 11370.6, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, or 11383 of the Health and Safety Code.

(3) Has not been sentenced to state prison for a term exceeding 36 months.

(b) Prior to sentencing, if the court proposes to give consideration to a placement, the court shall consider a written evaluation by the probation department, which shall include the following:

(1) Whether the defendant is eligible for participation pursuant to this section.

(2) Whether participation by the defendant and her eligible children is deemed to be in the best interests of the children.

(3) Whether the defendant is amenable to treatment for substance abuse and would benefit from participation in the program.

(4) Whether the program is deemed to be in the best interests of an eligible child of the defendant, as determined by a representative of the

appropriate child welfare services agency of the county if the child is a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code.

(c) The district attorney shall make a recommendation to the court as to whether or not the defendant would benefit from the program, which the court shall consider in making its decision. If the court's decision is without the concurrence of the district attorney, the court shall specify its reasons in writing and enter them into the record.

(d) If the court determines that the defendant may benefit from participation in this program, the court may impose a state prison sentence with the recommendation that the defendant participate in the program pursuant to this chapter. The court shall notify the department within 48 hours of imposition of this sentence.

(e) The Director of Corrections shall consider the court's recommendation in making a determination on the inmate's placement in the program.

(f) Women accepted for the program by the Director of Corrections shall be delivered by the county, pursuant to Section 1202a, to the facility selected by the department. Before the director accepts a woman for the program, the county shall provide to the director the necessary information to determine her eligibility and appropriate placement status. Priority for services and aftercare shall be given to inmates who are incarcerated in a county, or adjacent to a county, in which a program facility is located.

(g) Prior to being admitted to the program, each participant shall voluntarily sign an agreement specifying the terms and conditions of participation in the program.

(h) The department may refer inmates back to the sentencing court if the department determines that an eligible inmate has not been recommended for the program. The department shall refer the inmate to the court by an evaluative report so stating the department's assessment of eligibility, and requesting a recommendation by the court.

(i) Women who successfully complete the program, including the minimum of one year of transition services under intensive parole supervision, shall be discharged from parole. Women who do not successfully complete the program shall be returned to the state prison where they shall serve their original sentences. These persons shall receive full credit against their original sentences for the time served in the program, pursuant to Section 2933.

SEC. 17. Section 1240.1 of the Penal Code is amended to read:

1240.1. (a) In any noncapital criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and

advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment on appeal. The attorney shall admonish the defendant that he or she is not able to provide advice concerning his or her own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify that he or she has counseled the defendant as to whether arguably meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(b) It shall be the duty of every attorney representing an indigent defendant in any criminal, juvenile court, or civil commitment case to execute and file on his or her client's behalf a timely notice of appeal when the attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue any relief that may be available to him or her on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present those points on appeal when the document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of the notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless the undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of the trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon that motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it becomes known to him or her that the attorney has failed to do so, or at any time he or she shall become indigent if he or she was not previously indigent.

(c) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the

prospective indigent appellant himself or herself, provide counsel and advice to the prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(d) The failure of a trial attorney to perform any duty prescribed in this section, assign any particular point or error in the notice of appeal, or designate any particular thing for inclusion in the record on appeal shall not foreclose any defendant from filing a notice of appeal on his or her own behalf or from raising any point or argument on appeal; nor shall it foreclose the defendant or his or her counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

(e) (1) In order to expedite certification of the entire record on appeal in all capital cases, the defendant's trial counsel, whether retained by the defendant or court-appointed, and the prosecutor shall continue to represent the respective parties. Each counsel's obligations extend to taking all steps necessary to facilitate the preparation and timely certification of the record of both municipal and superior court proceedings.

(2) The duties imposed on trial counsel in paragraph (1) shall not foreclose the defendant's appellate counsel from requesting additions or corrections to the record on appeal in either the trial court or the Supreme Court in a manner provided by rules of court adopted by the Judicial Council.

SEC. 18. Section 2933.5 of the Penal Code is amended to read:

2933.5. (a) (1) Notwithstanding any other provision of law, every person who is convicted of any felony offense listed in paragraph (2), and who previously has been convicted two or more times, on charges separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in subdivision (g) of Section 667.5, of any offense or offenses listed in paragraph (2), shall be ineligible to earn credit on his or her term of imprisonment pursuant to this chapter.

(2) As used in this subdivision, ''felony offense'' includes any of the following:

(A) Murder, as defined in Sections 187 and 189.

(B) Voluntary manslaughter, as defined in subdivision (a) of Section 192.

(C) Mayhem as defined in Section 203.

(D) Aggravated mayhem, as defined in Section 205.

(E) Kidnapping, as defined in Section 207, 209, or 209.5.

(F) Assault with vitriol, corrosive acid, or caustic chemical of any nature, as described in Section 244.

(G) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(H) Sodomy by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 286.

(I) Sodomy while voluntarily acting in concert, as described in subdivision (d) of Section 286.

(J) Lewd or lascivious acts on a child under the age of 14 years, as described in subdivision (b) of Section 288.

(K) Oral copulation by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 288a.

(L) Continuous sexual abuse of a child, as described in Section 288.5.

(M) Sexual penetration, as described in subdivision (a) of Section 289.

(N) Exploding a destructive device or explosive with intent to injure, as described in Section 12303.3, with intent to murder, as described in Section 12308, or resulting in great bodily injury or mayhem, as described in Section 12309.

(O) Any felony in which the defendant personally inflicted great bodily injury, as provided in Section 12022.53 or 12022.7.

(b) A prior conviction of an offense listed in subdivision (a) shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law.

(c) This section shall apply whenever the present felony is committed on or after the effective date of this section, regardless of the date of commission of the prior offense or offenses resulting in credit-earning ineligibility.

(d) This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement terms, or probation ineligibility and habitual offender provisions authorized under any other section.

SEC. 19. Section 3046 of the Penal Code is amended to read:

3046. (a) No prisoner imprisoned under a life sentence may be paroled until he or she has served the greater of the following:

(1) A term of at least seven calendar years.

(2) A term as established pursuant to any other provision of law that establishes a minimum term or minimum period of confinement under a life sentence before eligibility for parole.

(b) If two or more life sentences are ordered to run consecutively to each other pursuant to Section 669, no prisoner so imprisoned may be paroled until he or she has served the term specified in subdivision (a) on each of the life sentences that are ordered to run consecutively.

(c) The Board of Prison Terms shall, in considering a parole for a prisoner, consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, pursuant to Section 1203.01, or in response to notices given under Section 3042, and recommendations of other persons interested in the granting or denying of the parole. The board shall enter on its order granting or denying parole to these prisoners, the fact that the statements and recommendations have been considered by it.

SEC. 20. Section 11160 of the Penal Code is amended to read:

11160. (a) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.

(2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared and sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, ''injury'' shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, ''assaultive or abusive conduct'' shall include any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261.

(15) Spousal rape, in violation of Section 262.

(16) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.

(17) Child abuse or endangerment, in violation of Section 273a or 273d.

(18) Abuse of spouse or cohabitant, in violation of Section 273.5.

(19) Sodomy, in violation of Section 286.

(20) Lewd and lascivious acts with a child, in violation of Section 288.

(21) Oral copulation, in violation of Section 288a.

(22) Sexual penetration, in violation of Section 289.

(23) Elder abuse, in violation of Section 368.

(24) An attempt to commit any crime specified in paragraphs (1) to (23), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence

that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) No supervisor or administrator shall impede or inhibit the reporting duties required under this section and no person making a report pursuant to this section shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require any employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

SEC. 21. Section 11165.1 of the Penal Code is amended to read:

11165.1. As used in this article, ''sexual abuse'' means sexual assault or sexual exploitation as defined by the following:

(a) ''Sexual assault'' means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation).

(b) Conduct described as ''sexual assault'' includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker

responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) ''Sexual exploitation'' refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, ''person responsible for a child's welfare'' means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

SEC. 22. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

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

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

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

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

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

(5) Any antique firearm. For purposes of this section, ''antique firearm'' means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for

which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

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

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

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

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

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

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

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

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

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

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

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

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

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

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

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) As used in this section, a ''belt buckle knife'' is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least $2^1/_2$ inches.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(24) As used in this section, a ''dirk'' or ''dagger'' means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, ''large-capacity magazine'' means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any ;.22 caliber tube ammunition feeding device.

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

SEC. 23. Section 12022.53 of the Penal Code is amended to read:

12022.53. (a) This section applies to the following felonies:

(1) Section 187 (murder).

(2) Section 203 or 205 (mayhem).

(3) Section 207, 209, or 209.5 (kidnapping).

(4) Section 211 (robbery).

(5) Section 215 (carjacking).

(6) Section 220 (assault with intent to commit a specified felony).

(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).

(8) Section 261 or 262 (rape).

(9) Section 264.1 (rape or sexual penetration in concert).

(10) Section 286 (sodomy).

(11) Section 288 or 288.5 (lewd act on a child).
(12) Section 288a (oral copulation).
(13) Section 289 (sexual penetration).
(14) Section 4500 (assault by life prisoner).
(15) Section 4501 (assault by prisoner).
(16) Section 4503 (holding a hostage by prisoner).
(17) Any felony punishable by death or imprisonment in the state prison for life.
(18) Any attempt to commit a crime listed in this subdivision other than an assault.

(b) Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a), and who in the commission of that felony personally used a firearm, shall be punished by a term of imprisonment of 10 years in the state prison, which shall be imposed in addition and consecutive to the punishment prescribed for that felony. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a), and who in the commission of that felony intentionally and personally discharged a firearm, shall be punished by a term of imprisonment of 20 years in the state prison, which shall be imposed in addition and consecutive to the punishment prescribed for that felony.

(d) Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, and who in the commission of that felony intentionally and personally discharged a firearm and proximately caused great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by a term of imprisonment of 25 years to life in the state prison, which shall be imposed in addition and consecutive to the punishment prescribed for that felony.

(e) (1) The enhancements specified in this section shall apply to any ’person charged as a principal in the commission of an offense that includes an allegation pursuant to this section when a violation of both this section and subdivision (b) of Section 186.22 are pled and proved.

(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1, shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that

person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(*l*) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

SEC. 24. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a

felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm specified by Section 12276 or 12276.5 pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) A first-time violation of subdivision (b) shall be an infraction punishable by a fine of up to five hundred dollars ($500), if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(2) The person is not found in possession of a firearm specified as an assault weapon pursuant to Section 12276 or Section 12276.5.

(3) The person has not previously been convicted of violating this section.

(4) The person was found to be in possession of the assault weapons within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(5) The person has since registered the firearms and any other lawfully obtained firearms defined by Section 12276.1, pursuant to Section 12285, except as provided for by this section, or relinquished them pursuant to Section 12288.

(d) Firearms seized pursuant to subdivision (c) shall be returned unless the court finds in the interest of public safety, after notice and

hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(e) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

(g) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies specified in subdivision (f) for law enforcement purposes, whether on or off duty.

(h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault weapons by an entity specified in subdivision (f) to a person, upon retirement, who retired as a sworn officer from that entity.

(i) Subdivision (b) shall not apply to the possession of an assault weapon by a retired peace officer who received that assault weapon pursuant to subdivision (h).

(j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (f).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(*l*) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(n) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(o) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (n).

(p) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(q) Subdivision (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286.

(2) A person who has a permit to possess an assault weapon issued pursuant to Section 12286 when he or she is acting in accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 25. Section 21221.5 of the Vehicle Code is amended to read:

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 23612, 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).

SEC. 26. Section 23612 of the Vehicle Code is amended to read:

23612. (a) (1) (A) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23140, 23152, or 23153. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23140, 23152, or 23153.

(C) The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23140, 23152, or 23153.

(D) The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in a fine, mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153, and (i) the suspension of the person's privilege to operate a motor vehicle for a period of one year, (ii) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the refusal occurs within seven years of a separate violation of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code that resulted in a conviction, or if the person's privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 for an offense that occurred on a separate occasion, or (iii) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the refusal occurs within seven years of two or more separate violations of

Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, that resulted in convictions, or if the person's privilege to operate a motor vehicle has been suspended or revoked two or more times pursuant to Section 13353, 13353.1, or 13353.2 for offenses that occurred on separate occasions, or if there is any combination of those convictions or administrative suspensions or revocations.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood or breath and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (2) of subdivision (d) applies.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and the officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests that are available at the facility to which that person has been transported. In that case, the officer shall advise the person of those tests that are available at the medical facility and that the person's choice is limited to those tests that are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) (1) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23140, 23152, or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood or breath for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(2) If a blood or breath test is not available under subparagraph (A) of paragraph (1) of subdivision (a), or under subparagraph (A) of paragraph (2) of subdivision (a), or under paragraph (1) of this subdivision, the person shall submit to the remaining test in order to determine the percent, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

(e) If the person, who has been arrested for a violation of Section 23140, 23152, or 23153, refuses or fails to complete a chemical test or tests, or requests that a blood or urine test be taken, the peace officer, acting on behalf of the department, shall serve the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle personally on the arrested person. The notice shall be on a form provided by the department.

(f) If the peace officer serves the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle, the peace officer shall take possession of any driver's license issued by this state which is held by the person. The temporary driver's license shall be an

endorsement on the notice of the order of suspension and shall be valid for 30 days from the date of arrest.

(g) (1) The peace officer shall immediately forward a copy of the completed notice of suspension or revocation form and any driver's license taken into possession under subdivision (f), with the report required by Section 13380, to the department. If the person submitted to a blood or urine test, the peace officer shall forward the results immediately to the appropriate forensic laboratory. The forensic laboratory shall forward the results of the chemical tests to the department within 15 calendar days of the date of the arrest.

(2) (A) Notwithstanding any other provision of law, any document containing data prepared and maintained in the governmental forensic laboratory computerized data base system that is electronically transmitted or retrieved through public or private computer networks to or by the department is the best available evidence of the chemical test results in all administrative proceedings conducted by the department. In order to be admissible as evidence in administrative proceedings, a document described in this subparagraph shall bear a certification by the employee of the department who retrieved the document certifying that the information was received or retrieved directly from the computerized data base system of a governmental forensic laboratory and that the document accurately reflects the data received or retrieved.

(B) Notwithstanding any other provision of law, the failure of an employee of the department to certify under subparagraph (A) is not a public offense.

(h) A preliminary alcohol screening test that indicates the presence or concentration of alcohol based on a breath sample in order to establish reasonable cause to believe the person was driving a vehicle in violation of Section 23140, 23152, or 23153 is a field sobriety test and may be used by an officer as a further investigative tool.

(i) If the officer decides to use a preliminary alcohol screening test, the officer shall advise the person that he or she is requesting that person to take a preliminary alcohol screening test to assist the officer in determining if that person is under the influence of alcohol or drugs, or a combination of alcohol and drugs. The person's obligation to submit to a blood, breath, or urine test, as required by this section, for the purpose of determining the alcohol or drug content of that person's blood, is not satisfied by the person submitting to a preliminary alcohol screening test. The officer shall advise the person of that fact and of the person's right to refuse to take the preliminary alcohol screening test.

SEC. 27. Section 727.2 of the Welfare and Institutions Code, as added by Chapter 995 of the Statutes of 1999, is amended and renumbered to read:

727.6. Where any minor has been adjudged a ward of the court for the commission of a ''sexually violent offense,'' as defined in Section 6600, and committed to the Department of the Youth Authority, the ward shall be given sexual offender treatment consistent with protocols for that treatment developed or implemented by the Department of the Youth Authority.

SEC. 28. Section 727.4 of the Welfare and Institutions Code is amended to read:

727.4. (a) Notice of any hearing pursuant to Section 727 shall be mailed by the probation officer to the child, the child's parent or guardian, any adult provider of care to the child including, but not limited to, foster parents, relative caregivers, preadoptive parents, community care facility, or foster family agency and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date of the hearing. The notice shall contain a statement regarding the nature of the status review or permanency planning hearing and any change in the custody or status of the child being recommended by the probation department. The notice shall also include a statement informing the foster parents, relative caregivers, or preadoptive parents that he or she may attend all hearings or may submit any information he or she deems relevant to the court in writing. The foster parents, relative caregiver, and preadoptive parents are entitled to notice and opportunity to be heard but need not be made parties to the proceedings.

(b) At least 10 calendar days prior to each status review and permanency planning hearing, after the hearing during which the court orders that the care, custody and control of the minor to be under the supervision of the probation officer for placement pursuant to subdivision (a) of Section 727, the probation officer shall file a social study report with the court. The social study report shall include, but not be limited to, the following information:

(1) Progress toward goals established in the case plan previously submitted to the court.

(2) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(3) The safety of the child and the continuing necessity for and appropriateness of the placement.

(4) A likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship.

(5) An updated case plan as specified in Section 706.6.

(6) Whether the child has been or will be referred to educational services and what services the child is receiving, including special

education and related services if the child has exceptional needs as described in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code or accommodations if the child has disabilities as described in Chapter 16 of Title 29 of the United States Code Annotated. The social worker or child advocate shall solicit comments from the appropriate local education agency prior to completion of the social study.

(7) Whether the right of the parent or guardian to make educational decisions for the child should be limited by the court pursuant to Section 7579.5 of the Government Code.

(c) The probation department shall inform the child, the child's parent or guardian, and all counsel of record that a copy of the social study prepared for the hearing will be available 10 days prior to the hearing and may be obtained from the probation officer.

(d) As used in this section:

(1) ''Foster care'' means residential care provided in any of the settings described in Section 11402.

(2) ''At risk of entering foster care'' means that conditions within a child's family may necessitate his or her entry into foster care unless those conditions are resolved.

(3) ''Preadoptive parent'' means a licensed foster parent who has been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a licensed adoption agency.

(4) ''Date of entry into foster care'' means the date that is 60 days after the date on which the minor was removed from his or her home.

(5) ''Reasonable efforts'' are those efforts made to prevent or eliminate the need for removing the minor from the minor's home, and efforts to make it possible for the minor to return home, including, but not limited to, case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services.

(6) ''Relative'' means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship including stepparents, stepsiblings, and all relatives whose status is preceded by the words ''great,'' ''great-great,'' ''grand,'' or the spouse of any of these persons even if the marriage was terminated by death or dissolution.

SEC. 29. Section 15610.63 of the Welfare and Institutions Code is amended to read:

15610.63. ''Physical abuse'' means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

SEC. 30. The amendments made by Section 22 of this act to Section 12022.53 of the Penal Code are technical only and do not make any substantive change to that section.

SEC. 31. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 32. Any section of any act enacted by the Legislature during the 2000 calendar year that takes effect on or before January 1, 2001, and that amends, amends and renumbers, adds, repeals and adds, or repeals any one or more of the sections affected by this act shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2000 calendar year and takes effect on or before January 1, 2001, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 288

An act to amend Sections 25000.5, 25350, 25354, 25356, and 25364 of, and to add Section 25141 to, the Public Resources Code, relating to petroleum fuel.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 25000.5 of the Public Resources Code is amended to read:

25000.5. (a) The Legislature finds and declares that overdependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries.

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation fuels, including the costs and values of environmental impacts, and to establish a state transportation energy policy that results in the least environmental and economic cost to the state. In pursuing the ''least environmental and economic cost'' strategy, it is the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic cost.

(c) For the purposes of this section, ''petroleum based fuels'' means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquefied petroleum gas, or the energy fraction of methyl tertiary-butyl ether (MTBE) or other ethers that is not attributed to natural gas.

SEC. 2. Section 25141 is added to the Public Resources Code, to read:

25141. ''Unbranded,'' as applied to fuel, means gasoline and diesel fuel sold for wholesale or retail distribution to consumers without proprietary additives or marketing under a brand name or trademark owned or controlled by an independent refiner or an integrated refining and marketing company.

SEC. 3. Section 25350 of the Public Resources Code is amended to read:

25350. (a) The Legislature finds and declares that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians.

(b) The Legislature further finds and declares that a complete and thorough understanding of the operations of the petroleum industry is required by state government at all times to enable it to respond to possible shortages, oversupplies, or other disruptions and to assess whether all consumers, including emergency service agencies, state and local government agencies, and agricultural and business consumers of petroleum products have adequate and economic supplies of fuel.

(c) The Legislature further finds and declares that information and data concerning all aspects of the petroleum industry, including, but not limited to, crude oil production, production and supplies of finished branded and unbranded gasoline, supplies of diesel fuel and other distillates, supplies of blendstocks used to make gasoline and other refined products, refining, product output, exports of finished gasoline, diesel fuel, and blendstocks, prices, distribution, demand, and investment choices and decisions are essential for the state to develop and administer energy policies that are in the interest of the state's economy and the public's well-being.

SEC. 4. Section 25354 of the Public Resources Code is amended to read:

25354. (a) Each refiner and major marketer shall submit information each month to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each monthly reporting period and shall include the following:

(1) Refiners shall report, for each of their refineries, feedstock inputs, origin of petroleum receipts, imports of finished petroleum products and blendstocks, by type, including the source of those imports, exports of finished petroleum products and blendstocks, by type, including the destination of those exports, refinery outputs, refinery stocks, and finished product supply and distribution, including all gasoline sold unbranded by the refiner, blender, or importer.

(2) Major marketers shall report on petroleum product receipts and the sources of these receipts, inventories of finished petroleum products and blendstocks, by type, distributions through branded and unbranded distribution networks, and exports of finished petroleum products and blendstocks, by type, from the state.

(b) Each major oil producer, refiner, marketer, oil transporter, and oil storer shall annually submit information to the commission in such form and extent as the commission prescribes pursuant to this section. The

information shall be submitted within 30 days after the end of each reporting period, and shall include the following:

(1) Major oil transporters shall report on petroleum by reporting the capacities of each major transportation system, the amount transported by each system, and inventories thereof. The commission may prescribe rules and regulations that exclude pipeline and transportation modes operated entirely on property owned by major oil transporters from the reporting requirements of this section if the data or information is not needed to fulfill the purposes of this chapter. The provision of the information shall not be construed to increase or decrease any authority the Public Utilities Commission may otherwise have.

(2) Major oil storers shall report on storage capacity, inventories, receipts and distributions, and methods of transportation of receipts and distributions.

(3) Major oil producers shall, with respect to thermally enhanced oil recovery operations, report annually by designated oil field, the monthly use, as fuel, of crude oil and natural gas.

(4) Refiners shall report on facility capacity, and utilization and method of transportation of refinery receipts and distributions.

(5) Major oil marketers shall report on facility capacity and methods of transportation of receipts and distributions.

(c) Each person required to report pursuant to subdivision (a) shall submit a projection each month of the information to be submitted pursuant to subdivision (a) for the quarter following the month in which the information is submitted to the commission.

(d) In addition to the data required under subdivision (a), each integrated oil refiner (produces, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the commission an annual industry forecast for Petroleum Administration for Defense, District V (covering Arizona, Nevada, Washington, Oregon, California, Alaska, and Hawaii). The forecast shall include the information to be submitted under subdivision (a), and shall be submitted by March 15 of each year. The commission may require California-specific forecasts. However, those forecasts shall be required only if the commission finds them necessary to carry out its responsibilities.

(e) The commission may by order or regulation modify the reporting period as to any individual item of information setting forth in the order or regulation its reason for so doing.

(f) The commission may request additional information as necessary to perform its responsibilities under this chapter.

(g) Any person required to submit information or data under this chapter, in lieu thereof, may submit a report made to any other governmental agency, if:

(1) The alternate report or reports contain all of the information or data required by specific request under this chapter.

(2) The person clearly identifies the specific request to which the alternate report is responsive.

(h) Each refiner shall submit to the commission, within 30 days after the end of each monthly reporting period, all of the following information in such form and extent as the commission prescribes:

(1) Monthly California weighted average prices and sales volumes of finished leaded regular, unleaded regular, and premium motor gasoline sold through company-operated retail outlets, to other end-users, and to wholesale customers.

(2) Monthly California weighted average prices and sales volumes for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

(3) Monthly California weighted average prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur and consumer grade propane.

SEC. 5. Section 25356 of the Public Resources Code is amended to read:

25356. (a) The commission, utilizing its own staff and other support staff having expertise and experience in, or with, the petroleum industry, shall gather, analyze, and interpret the information submitted to it pursuant to Section 25354 and other information relating to the supply and price of petroleum products, with particular emphasis on motor vehicle fuels, including, but not limited to, all of the following:

(1) The nature, cause, and extent of any petroleum or petroleum products shortage or condition affecting supply.

(2) The economic and environmental impacts of any petroleum and petroleum product shortage or condition affecting supply.

(3) Petroleum or petroleum product demand and supply forecasting methodologies utilized by the petroleum industry in California.

(4) The prices, with particular emphasis on retail motor fuel prices, including sales to unbranded retail markets, and any significant changes in prices charged by the petroleum industry for petroleum or petroleum products sold in California and the reasons for those changes.

(5) The profits, both before and after taxes, of the industry as a whole and of major firms within it, including a comparison with other major industry groups and major firms within them as to profits, return on equity and capital, and price-earnings ratio.

(6) The emerging trends relating to supply, demand, and conservation of petroleum and petroleum products.

(7) The nature and extent of efforts of the petroleum industry to expand refinery capacity and to make acquisitions of additional supplies of petroleum and petroleum products, including activities relative to the exploration, development, and extraction of resources within the state.

(8) The development of a petroleum and petroleum products information system in a manner that will enable the state to take action to meet and mitigate any petroleum or petroleum products shortage or condition affecting supply.

(b) The commission shall analyze the impacts of state and federal policies and regulations upon the supply and pricing of petroleum products.

SEC. 6. Section 25364 of the Public Resources Code is amended to read:

25364. (a) Any person required to present information to the commission pursuant to Section 25354 may request that specific information be held in confidence.

(b) Information presented to the commission pursuant to Section 25354 shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c) (1) Whenever the commission receives a request to publicly disclose unaggregated information, or otherwise proposes to publicly disclose information submitted pursuant to Section 25354, notice of the request or proposal shall be provided to the person submitting the information. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

(2) The commission shall consider the respondent's submittal in determining whether to publicly disclose the information submitted to it to which a claim of confidentiality is made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information submitted to it pursuant to Section 25354 within 10 working days after the commission has issued its written decision required in this section.

(e) No information submitted to the commission pursuant to Section 25354 shall be deemed confidential if the person submitting the information or data has made it public.

(f) With respect to petroleum products and blendstocks reported by type pursuant to paragraph (1) or (2) of subdivision (a) of Section 25354 and information provided pursuant to subdivision (h) of Section 25354, neither the commission nor any employee of the commission may do any of the following:

(1) Use the information furnished under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) of Section 25354 for any purpose other than the statistical purposes for which it is supplied.

(2) Make any publication whereby the information furnished by any particular establishment or individual under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) of Section 25354 can be identified.

(3) Permit anyone other than commission members and employees of the commission to examine the individual reports provided under paragraph (1) or (2) of subdivision (a) of Section 25354 or under subdivision (h) of Section 25354.

(g) Notwithstanding any other provision of law, the commission may disclose confidential information received pursuant to subdivision (a) of Section 25310.4 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.

CHAPTER 289

An act to amend Section 148.6 of the Penal Code, relating to law enforcement.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

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

SECTION 1. Section 148.6 of the Penal Code is amended to read:

148.6. (a) (1) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor.

(2) Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following advisory, all in boldface type:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

_____

Complainant

(3) The advisory shall be available in multiple languages.

(b) Every person who files a civil claim against a peace officer or a lien against his or her property, knowing the claim or lien to be false and with the intent to harass or dissuade the officer from carrying out his or her official duties, is guilty of a misdemeanor. This section applies only to claims pertaining to actions that arise in the course and scope of the peace officer's duties.

SEC. 2. 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 290

An act to amend Section 65050 of the Government Code, and to repeal Article 2 (commencing with Section 33492.50) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 65050 of the Government Code is amended to read:

65050. (a) As used in this article, the following phrases have the following meanings:

(1) ''Military base'' means a military base that is designated for closure or downward realignment pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526), the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510), or any subsequent closure or realignment approved by the President of the United States without objection by the Congress.

(2) ''Effective date of a base closure'' means the date a base closure decision becomes final under the terms specified by federal law. These decisions become final 45 legislative days after the date the federal Base Closure Commission submits its recommendations to the President, he or she approves those recommendations, and the Congress does not disapprove those recommendations or adjourns.

(b) It is not the intent of the Legislature in enacting this section to preempt local planning efforts or to supersede any existing or subsequent authority invested in the Defense Conversion Council, as established by Article 3.7 (commencing with Section 15346). It is the intent of this article to provide a means of conflict resolution.

(c) For the purposes of this article, a single local base reuse entity shall be recognized pursuant to the provisions of this section for each military base closure in this state.

(d) The following entities or their successors, including, but not limited to, separate airport or port authorities, are recognized as the single local reuse entity for the military bases listed:

Military Base	Local Reuse Entity
George Air Force Base	Victor Valley Economic Development Authority
Hamilton Army Base	City of Novato
Mather Air Force Base	County of Sacramento
Norton Air Force Base	Inland Valley Development Authority
Presidio Army Base	City and County of San Francisco
Salton Sea Navy Base	Imperial County
Castle Air Force Base	County of Merced
Hunters Point Naval Annex	City and County of San Francisco
Long Beach Naval Station	City of Long Beach
MCAS Tustin	City of Tustin
Sacramento Army Depot	City of Sacramento
MCAS El Toro	Local redevelopment authority recognized by the United States Department of Economic Adjustment
March Air Force Base	March Joint Powers Authority
Mare Island Naval Shipyard	City of Vallejo
Naval Training Center, San Diego	City of San Diego
NS Treasure Island	City and County of San Francisco
NAS Alameda, San Francisco Bay Public Works Center, Alameda Naval Aviation Depot	Alameda Reuse and Redevelopment Authority
Oakland Navy Hospital	City of Oakland
Fort Ord Army Base	Fort Ord Reuse Authority

Any military base reuse authority created pursuant to Title 7.86 (commencing with Section 67800).

(e) For any military base that is closed and not listed in subdivision (d), a single local reuse entity shall be recognized for the base by the state if resolutions acknowledging the entity as the single base reuse entity are adopted by the affected county board of supervisors and the city council of each city located wholly or partly within the boundaries of a military base or having a sphere of influence over any portion of the base and are

forwarded to the Defense Conversion Council and the Office of Planning and Research within 60 days after the effective date of a base closure decision or by March 1, 1995, whichever date is later.

(f) If the necessary resolutions are not adopted within the time limit specified in subdivision (e), the Director of the Office of Planning and Research may select a mediator, from a list submitted by the Defense Conversion Council containing no fewer than seven recommendations, to reach agreement among the affected jurisdictions on a single local reuse entity. In selecting a mediator, the director shall appoint a neutral person or persons, with experience in local land use issues, to facilitate communication between the disputants and assist them in reaching a mutually acceptable agreement.

(g) As a last resort, and only if no recognition is made pursuant to the procedure specified in subdivisions (e) and (f) within 120 days after a base closure decision has become final or within 120 days after the date on which this section becomes operative, whichever date is later, the Defense Conversion Council, created pursuant to Article 3.6 (commencing with Section 15346) of Chapter 1 of Part 6.7 of Division 3 of Title 2, shall hold public hearings and recognize a single local base reuse entity for each closing base for which agreement is reached among the local jurisdictions with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800) on the base, or recommend legislation or action by the local agency formation commission if necessary to implement a proposed recognition.

(h) In recognizing a single local reuse entity pursuant to this section, preference shall be given to existing entities and entities with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800).

(i) Any recognition of a single local reuse entity made pursuant to subdivision (e), (f), or (g) shall be submitted by the Director of the Office of Planning and Research to the Governor, the Legislature, and the United States Department of Defense.

SEC. 2. Article 2 (commencing with Section 33492.50) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code is repealed.

CHAPTER 291

An act to amend Section 12956.1 of the Government Code, relating to public records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 12956.1 of the Government Code is amended 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) (1) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface 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, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.''

(2) The requirements set forth in paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(c) (1) Any person who holds an ownership interest of record in property that he or she believes is the subject of a restrictive covenant referred to in subdivision (b), may file an application with the Department of Fair Employment and Housing requesting a determination of whether the restrictive covenant violates the fair housing laws and is void. Any application pursuant to this subdivision shall be in writing, contain a copy of the document, and identify the location within the document where the restrictive covenant is located.

(2) If the department determines that the document contains a restrictive covenant that violates the law, it shall provide the applicant with a written statement entitled ''RESTRICTIVE COVENANT MODIFICATION'' that sets forth this determination, including the page and line numbers of any void restrictive covenant, which statement may be recorded with the document pursuant to paragraph (3). The department shall process all applications within 90 days. The department shall include the following language at the end of the written statement which the applicant may complete and sign for purposes of recording pursuant to paragraph (3):

I (We) _____ have an ownership interest of record in the property located at _____ (Address) that is the subject of this document. The Department of Fair Employment and Housing has determined that this document contains a restrictive covenant that violates the law and is void. Pursuant to Section 12956.1 of the Government Code, this document is being recorded solely for the purpose of eliminating that restrictive covenant as shown on page(s) __ of the document recorded on __ (Date) in book __ and page __, or instrument number __ of the official records of the County of _____. No other changes have been made.

If executed at any place, within or without this state:

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____ _____

(Date and Place) (Owner(s) Signature(s))

(3) The applicant may strike out a void restrictive covenant identified by the department, complete and attach a copy of the written statement from the department to the front of the document, and cause the modified document to be recorded, if provided that all other requirements of recordation are met, including the payment of any recordation fee.

(d) Subdivision (c) of this section shall not apply to persons holding an ownership interest in property that is part of a common interest development as defined in subdivision (c) of Section 1351 of the Civil Code, and where the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 1352.5 of the Civil Code.

(e) The provisions of this section shall have no bearing or effect upon Section 12955.9.

(f) Any person who records 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 recording the 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 recording of the document.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure a uniform recording procedure so that all counties will respond in the same manner to requests to modify restrictive covenants and housing deeds, it is necessary that this act take effect immediately.

CHAPTER 292

An act to amend Section 10126 of, to add Section 10780.5 to, and to add Article 1.3 (commencing with Section 20103.8) to Chapter 1 of Part 3 of Division 2 of, the Public Contract Code, relating to public contracts.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

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

(a) Because the dollar amount of the lowest bid is not known until the bids are received and opened on bid day, and because the amount of money available for public works projects is limited, public entities need the budgetary flexibility afforded by allowing them to list items on which bidders must provide bid prices, but which may or may not be added to, or deleted from, the contract, depending upon the availability of funds.

(b) Selective use of additive and deductive bid items to determine the lowest responsible bidder can violate the public policies described in subdivisions (c) and (d) of Section 100 of the Public Contract Code.

(c) The public policies described in subdivisions (c) and (d) of Section 100 of the Public Contract Code can be satisfied by a process in which additive and deductive bid items are selectively used to determine the lowest monetary bidder after the bids are received, if no information that would identify any of the bidders is revealed to the public entity before the lowest monetary bidder is determined.

SEC. 2. Section 10126 of the Public Contract Code is amended to read:

10126. Notwithstanding the provisions of Section 10125, the estimate of cost may be approved by the director, which includes alternates contemplating additions to, or deletions from, the base bid, provided that all of the following requirements are met:

(a) Estimates are made for each contingency and, in the aggregate, such alternates do not exceed 10 percent of the estimated cost for the project.

(b) The available funds are at least sufficient to cover the filed estimate for the base project.

(c) Whenever additive or deductive items are included in a bid, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided by paragraph (1) will be used:

(1) The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.

(2) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.

(3) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items taken in order from a specifically identified list of those items, depending upon available funds as identified in the solicitation.

(4) The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.

(d) The contract is awarded to the lowest bidder, as determined by the method prescribed in subdivision (c).

(e) A responsible bidder who submitted the lowest bid as determined by this section shall be awarded the contract, if it is awarded. This section does not preclude the public entity from adding to or deducting from the contract any of the additive or deductive items after the lowest responsible bidder has been determined.

SEC. 3. Section 10780.5 is added to the Public Contract Code, to read:

10780.5. The trustees may require a bid for a public works contract to include prices for items that may be added to, or deducted from, the scope of work in the contract for which the bid is being submitted. Whenever additive or deductive items are included in a bid, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided by subdivision (a) will be used:

(a) The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.

(b) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.

(c) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items taken in order from a

specifically identified list of those items, depending upon available funds as identified in the solicitation.

(d) The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.

A responsible bidder who submitted the lowest bid as determined by this section shall be awarded the contract, if it is awarded. This section does not preclude the trustees from adding to or deducting from the contract any of the additive or deductive items after the lowest responsible bidder has been determined.

SEC. 4. Article 1.3 (commencing with Section 20103.8) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 1.3. Award of Contracts

20103.8. A local agency may require a bid for a public works contract to include prices for items that may be added to, or deducted from, the scope of work in the contract for which the bid is being submitted. Whenever additive or deductive items are included in a bid, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided by subdivision (a) will be used:

(a) The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.

(b) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.

(c) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items taken in order from a specifically identified list of those items, depending upon available funds as identified in the solicitation.

(d) The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.

A responsible bidder who submitted the lowest bid as determined by this section shall be awarded the contract, if it is awarded. This section does not preclude the local agency from adding to or deducting from the contract any of the additive or deductive items after the lowest responsible bidder has been determined.

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CHAPTER 293

An act to amend Section 4070 of, and to add Section 4071.1 to, the Business and Professions Code, and to add Section 11164.5 to the Health and Safety Code, relating to prescriptions.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. It is the intention of the Legislature that pharmacies in this state have the ability to adopt new technologies involving the electronic transmission of prescriptions to reduce the occurrence of dispensing errors and to improve service to Californians. Errors in the dispensing of controlled substances pose the greatest potential of harm to patients. It is the intention of the Legislature that the California State Board of Pharmacy and the Department of Justice allow pharmacies to utilize new technologies to electronically transmit data prescriptions for controlled substances that may reduce the risk of prescription errors as soon as possible after federal law permits this practice, provided that the board and the Attorney General find there is no substantial risk of the diversion of controlled substances by the use of electronic data transmission prescriptions for these substances.

SEC. 2. Section 4070 of the Business and Professions Code is amended to read:

4070. (a) Except as provided in Section 4019 and subdivision (b), an oral or an electronic data transmission prescription as defined in subdivision (c) of Section 4040 shall as soon as practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber or the address of the patient or patients if the information is readily retrievable in the pharmacy.

(b) A pharmacy receiving an electronic transmission prescription shall not be required to reduce that prescription to writing or to hard copy form if, for three years from the last date of furnishing pursuant to that prescription or order, the pharmacy is able, upon request by the board, to immediately produce a hard copy report that includes for each date of dispensing of a dangerous drug or dangerous device pursuant to that prescription or order: (1) all of the information described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) of Section 4040, and (2) the name or identifier of the pharmacist who dispensed the dangerous drug or dangerous device. This subdivision shall not apply to prescriptions for controlled substances classified in

Schedule II, III, IV, or V, except as permitted pursuant to Section 11164.5 of the Health and Safety Code.

(c) If only recorded and stored electronically, on magnetic media, or in any other computerized form, the pharmacy's computer system shall not permit the received information or the dangerous drug or dangerous device dispensing information required by this section to be changed, obliterated, destroyed, or disposed of, for the record maintenance period required by law once the information has been received by the pharmacy and once the dangerous drug or dangerous device has been dispensed. Once a dangerous drug or dangerous device has been dispensed, if the previously created record is determined to be incorrect, a correcting addition may be made only by or with the approval of a pharmacist. After a pharmacist enters the change or enters his or her approval of the change into the computer, the resulting record shall include the correcting addition and the date it was made to the record, the identity of the person or pharmacist making the correction, and the identity of the pharmacist approving the correction.

(d) Nothing in this section shall impair the requirement to have an electronically transmitted prescription transmitted only to the pharmacy of the patient's choice or to have a written prescription. This requirement shall not apply to orders for medications to be administered in an acute care hospital.

SEC. 3. Section 4071.1 is added to the Business and Professions Code, to read:

4071.1. (a) A prescriber, a prescriber's authorized agent, or a pharmacist may electronically enter a prescription or an order, as defined in Section 4019, into a pharmacy's or hospital's computer from any location outside of the pharmacy or hospital with the permission of the pharmacy or hospital. For purposes of this section, a ''prescriber's authorized agent'' is a person licensed or registered under Division 2 (commencing with Section 500). This subdivision shall not apply to prescriptions for controlled substances classified in Schedule II, III, IV, or V, except as permitted pursuant to Section 11164.5 of the Health and Safety Code.

(b) Nothing in this section shall reduce the existing authority of other hospital personnel to enter medication orders or prescription orders into a hospital's computer.

(c) No dangerous drug or dangerous device shall be dispensed pursuant to a prescription that has been electronically entered into a pharmacy's computer without the prior approval of a pharmacist.

SEC. 4. Section 11164.5 is added to the Health and Safety Code, to read:

11164.5. (a) Notwithstanding Section 11164, with the approval of the California State Board of Pharmacy and the Department of Justice,

a pharmacy or hospital may receive electronic data transmission prescriptions or computer entry prescriptions or orders as specified in Section 4071.1 of the Business and Professions Code, for controlled substances in Schedule II, III, IV, or V if authorized by federal law and in accordance with regulations promulgated by the Drug Enforcement Administration. The California State Board of Pharmacy shall maintain a list of all requests and approvals granted pursuant to this subdivision.

(b) Notwithstanding Section 11164, if approved pursuant to subdivision (a), a pharmacy or hospital receiving an electronic transmission prescription or a computer entry prescription or order for a controlled substance classified in Schedule II, III, IV, or V shall not be required to reduce that prescription or order to writing or to hard copy form, if for three years from the last day of dispensing that prescription, the pharmacy or hospital is able, upon request of the board or the Department of Justice, to immediately produce a hard copy report that includes for each date of dispensing of a controlled substance in Schedules II, III, IV, and V pursuant to the prescription all of the information described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) of Section 4040 of the Business and Professions Code and the name or identifier of the pharmacist who dispensed the controlled substance.

(c) Notwithstanding Section 11164, if only recorded and stored electronically, on magnetic media, or in any other computerized form, the pharmacy's or hospital's computer system shall not permit the received information or the controlled substance dispensing information required by this section to be changed, obliterated, destroyed, or disposed of, for the record maintenance period required by law, once the information has been received by the pharmacy or the hospital and once the controlled substance has been dispensed, respectively. Once the controlled substance has been dispensed, if the previously created record is determined to be incorrect, a correcting addition may be made only by or with the approval of a pharmacist. After a pharmacist enters the change or enters his or her approval of the change into the computer, the resulting record shall include the correcting addition and the date it was made to the record, the identity of the person or pharmacist making the correction, and the identity of the pharmacist approving the correction.

(d) Nothing in this section shall be construed to exempt any pharmacy or hospital dispensing Schedule II controlled substances pursuant to electronic transmission prescriptions from existing reporting requirements.

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 294

An act to amend Section 25534.06 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 25534.06 of the Health and Safety Code is amended to read:

25534.06. (a) A city or county that adopts, amends, or repeals an ordinance related to the regulation of regulated substances pursuant to this article shall do so at a public meeting for which notice has been given in a newspaper of general circulation that is published and circulated in the affected city or county, and the city or county shall state in the ordinance the reasons for adopting, amending, or repealing the ordinance.

(b) A city or county required to provide notice pursuant to subdivision (a) may, in addition to publishing the notice in a newspaper of general circulation, submit the notice to the California Environmental Protection Agency, which shall post that notice on the Internet at a location established for notices that may be posted pursuant to this subdivision.

(c) A city or county required to provide notice pursuant to subdivision (a) may also submit the full text of the ordinance and a summary of any violations of the ordinance to the California Environmental Protection Agency, which shall post the full text of the ordinance and the summary of any violations of the ordinance, or a link to the full text of the ordinance and the summary of any violations of the ordinance, on the agency's Internet website.

(d) The California Environmental Protection Agency shall not implement subdivision (b) or (c) until July 1, 2001, unless otherwise authorized to do so on an earlier date, in accordance with a process for

considering exemptions established by the Year 2000 Executive Committee, pursuant to Executive Order D-3-99.

CHAPTER 295

An act to amend Section 11019 of the Government Code, relating to state government.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 11019 of the Government Code is amended to read:

11019. (a) Any department or authority specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when the advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of four hundred thousand dollars ($400,000) or less. This amount shall be increased by 5 percent, as determined by the Department of Finance, for each year commencing with 1989. Advance payments may also be made with respect to any contract that the Department of Finance determines has been entered into with any community-based private nonprofit agency with modest reserves and potential cash-flow problems. No advance payment shall be granted if the total annual contract exceeds four hundred thousand dollars ($400,000), without the prior approval of the Department of Finance.

The specific departments and authority mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each plan shall include a procedure whereby the department or authority determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each plan shall be approved by the Department of Finance.

(b) Subdivision (a) shall apply to the Emergency Medical Service Authority, the California Department of Aging, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Department of Corrections, the Department of Economic Opportunity, the Employment Development Department, the State Department of Health Services, the State Department of Mental Health, the Department of Rehabilitation, the State Department of Social Services, the Department of the Youth Authority, the State Department of Education, the area boards on developmental disabilities, the Organization of Area Boards, the Office of Statewide Health Planning and Development, and the California Environmental Protection Agency, including all boards and departments contained therein.

Subdivision (a) shall also apply to the Health and Welfare Agency, which may make advance payments, pursuant to the requirements of that subdivision, to multipurpose senior services projects as established in Sections 9400 to 9413, inclusive, of the Welfare and Institutions Code.

Subdivision (a) shall also apply to the Resources Agency, including all boards and departments contained in that agency, which may make advance payment pursuant to the requirements of that subdivision with respect to grants and contracts awarded to certified local community conservation corps .

(c) A county may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to any applicable federal or state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency.

SEC. 2. Section 11019 of the Government Code is amended to read:

11019. (a) Any department or authority specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when the advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of four hundred thousand dollars ($400,000) or less. This amount shall be

increased by 5 percent, as determined by the Department of Finance, for each year commencing with 1989. Advance payments may also be made with respect to any contract that the Department of Finance determines has been entered into with any community-based private nonprofit agency with modest reserves and potential cash-flow problems. No advance payment shall be granted if the total annual contract exceeds four hundred thousand dollars ($400,000), without the prior approval of the Department of Finance.

The specific departments and authority mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each plan shall include a procedure whereby the department or authority determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each plan shall be approved by the Department of Finance.

(b) Subdivision (a) shall apply to the Emergency Medical Service Authority, the California Department of Aging, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Department of Corrections, the Department of Economic Opportunity, the Employment Development Department, the State Department of Health Services, the State Department of Mental Health, the Department of Rehabilitation, the State Department of Social Services, the Department of Child Support Services, the Department of the Youth Authority, the State Department of Education, the area boards on developmental disabilities, the Organization of Area Boards, the Office of Statewide Health Planning and Development, and the California Environmental Protection Agency, including all boards and departments contained therein.

Subdivision (a) shall also apply to the Health and Welfare Agency, which may make advance payments, pursuant to the requirements of that subdivision, to multipurpose senior services projects as established in Sections 9400 to 9413, inclusive, of the Welfare and Institutions Code.

Subdivision (a) shall also apply to the Resources Agency, including all boards and departments contained in that agency, which may make advance payments pursuant to the requirements of that subdivision with respect to grants and contracts awarded to certified local community conservation corps.

(c) A county may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to any applicable federal or state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made

pursuant to the contract and those laws, during the fiscal year to the private nonprofit agency.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11019 of the Government Code proposed by this bill and AB 2876. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 11019 of the Government Code, and (3) this bill is enacted after AB 2876, in which case Section 11019 of the Government Code, as amended by AB 2876, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 296

An act to amend Section 25505 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 25505 of the Health and Safety Code is amended to read:

25505. (a) (1) Except as provided in subdivision (e), each handler shall submit its business plan to the administering agency in accordance with the requirements of this article and certify that the business plan meets the requirements of this article.

(2) If, after review, the administering agency determines that the handler's business plan is deficient in any way, the administrative agency shall notify the handler of those deficiencies. The handler shall submit a corrected business plan within 30 days from the date of the notice.

(3) If a handler fails, after reasonable notice, to submit a business plan in compliance with this article, the administering agency shall immediately take appropriate action to enforce this article, including the imposition of civil and criminal penalties as specified in this article.

(b) In addition to the requirements of Section 25510, whenever a substantial change in the handler's operations occurs that requires a modification of its business plan, the handler shall submit a copy of the business plan revisions to the administering agency within 30 days from the date of the operational change.

(c) Each handler shall, in any case, review the business plan, submitted pursuant to subdivision (a) or (b) at least once every three years thereafter after the initial submission of the business plan, to determine if a revision is needed and shall certify to the administering agency that the review was made and that any necessary changes were made to the plan. A copy of those changes shall be submitted to the administering agency as a part of that certification.

(d) Unless exempted from the business plan requirements under this chapter, each handler shall annually report its hazardous materials inventory on the form required by subdivision (a) of Section 25503.3 or in the alternative form designated by the administering agency pursuant to subdivision (b) of Section 25503.3, or submit a certification statement to the administering agency of the county or city in which the handler is located.

(e) (1) Notwithstanding any other provision of this article, an administering agency may, with the written concurrence of the local fire chief, require a handler to submit only the inventory required by subdivision (a) of Section 25504, a list of emergency contacts, a site plan, and a certification that the handler has prepared a complete business plan that meets the requirements of this article, in lieu of the submission of a business plan, and require the handler to maintain the complete business plan at the site where the inventory is stored.

(2) If an administering agency requires a handler to submit only the inventory, the list of emergency contacts, the site plan, and the certification pursuant to paragraph (1), the administering agency shall review the remaining components of the business plan during its periodic inspections of the handler, and the handler shall annually submit a form, provided by the administering agency, that certifies that the handler has included, and maintains as current, in the business plan, all other information required pursuant to Section 25504. Whenever there is a substantial change in a handler's operations that requires modification of its business plan, the handler shall submit a copy of those changes in accordance with subdivision (b).

(3) If an administering agency requires a handler to submit only the inventory, the list of emergency contacts, the site plan, and the certification pursuant to paragraph (1), the administering agency shall obtain from the handler the other components of the business plan that are not filed with the administering agency upon receipt of a request for public inspection of the business plan. The handler shall submit a complete copy of the business plan to the administering agency within five working days after the administering agency receives a request for public inspection and the administering agency shall make the business plan available to the member of the public requesting the inspection in accordance with the procedures specified in Section 25506. The

administering agency shall not charge for a request to obtain this information or for an examination of the business plan during the administering agency's normal working hours.

(4) If, for any reason, a business plan maintained by a handler that is required to only submit the inventory, the list of emergency contacts, the site plan, and the certification pursuant to paragraph (1), is damaged or destroyed, the handler shall replace the business plan within 15 days of its damage or destruction, and shall notify the administering agency of the replacement.

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 297

An act to amend Sections 10621, 10642, and 10644 of the Water Code, relating to water.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 10621 of the Water Code is amended to read:

10621. (a) Each urban water supplier shall update its plan at least once every five years on or before December 31, in years ending in five and zero.

(b) Every urban water supplier required to prepare a plan pursuant to this part shall notify any city or county within which the supplier provides water supplies that the urban water supplier will be reviewing the plan and considering amendments or changes to the plan. The urban water supplier may consult with, and obtain comments from, any city or county that receives notice pursuant to this subdivision.

(c) The amendments to, or changes in, the plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

SEC. 2. Section 10642 of the Water Code is amended to read:

10642. Each urban water supplier shall encourage the active involvement of diverse social, cultural, and economic elements of the population within the service area prior to and during the preparation of the plan. Prior to adopting a plan, the urban water supplier shall make the plan available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. The urban water supplier shall provide notice of the time and place of hearing to any city or county within which the supplier provides water supplies. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the plan shall be adopted as prepared or as modified after the hearing.

SEC. 3. Section 10644 of the Water Code is amended to read:

10644. (a) An urban water supplier shall file with the department and any city or county within which the supplier provides water supplies a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be filed with the department and any city or county within which the supplier provides water supplies within 30 days after adoption.

(b) The department shall prepare and submit to the Legislature, on or before December 31, in the years ending in six and one, a report summarizing the status of the plans adopted pursuant to this part. The report prepared by the department shall identify the outstanding elements of the individual plans. The department shall provide a copy of the report to each urban water supplier that has filed its plan with the department. The department shall also prepare reports and provide data for any legislative hearings designed to consider the effectiveness of plans submitted pursuant to this part.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 298

An act to amend Sections 64101, 64114, 64301, 64320, 64321, 64321.5, and 64322 of the Food and Agricultural Code, relating to the Dairy Council.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 64101 of the Food and Agricultural Code is amended to read:

64101. There is in the state government the Dairy Council of California which shall consist of not less than 24, nor more than 25 members. The membership of the council shall be as follows:

(a) There shall be 12 members that are actually engaged in the production of milk, or that represent producers that are actually engaged in the production of milk. These 12 members are the producer members of the council.

(b) There shall be 12 members that are handlers or producer-handlers of dairy products. These 12 members are the handler members of the council.

(c) Upon the recommendation of the council, the director may appoint one person who is neither a producer, handler, or producer-handler, and who shall represent the public generally.

SEC. 2. Section 64114 of the Food and Agricultural Code is amended to read:

64114. The appointed members of the council shall receive one hundred dollars ($100) per day for each day spent in actual attendance at the meetings or on the business of the council and shall be reimbursed for necessary traveling and other expenses which are incurred in the performance of their official duties.

SEC. 3. Section 64301 of the Food and Agricultural Code is amended to read:

64301. Annually, prior to the commencement of the fiscal year, the secretary shall, upon recommendation of the council, establish and announce the fees for milk used in class 1 and for all other usages to be paid by producers, producer-handlers, and handlers for the coming fiscal year.

These fees shall be established at levels sufficient to finance the budget for the coming fiscal year as approved by the secretary pursuant to Sections 64153 and 64154.

The fee established by the secretary for class 1 milk shall not exceed two cents ($.02) per hundredweight of such market milk testing 3.5 percent milkfat and 8.7 percent solids-not-fat.

The fee established by the secretary for all other usages of milk shall not exceed eight mills ($0.008) per hundredweight of milk testing 3.5 percent milkfat and 8.7 percent solids-not-fat.

The relationship between the fees per hundredweight established for class 1 milk and for all other usages shall be at a ratio of 2.5 to 1. These fees shall be the same for producers and handlers.

SEC. 4. Section 64320 of the Food and Agricultural Code is amended to read:

64320. (a) Between July 1, 1983, and December 31, 1983, and in the same period each five years thereafter, the secretary shall, by the public hearing procedure, and if appropriate, the referendum procedure provided for in this article, determine whether the council program provided for in this chapter shall continue in effect.

(b) If the secretary finds from evidence received at the hearing that a substantial question exists as to whether the council program is contrary to or does not effectuate the declared purposes or provisions of this chapter, the council program shall be submitted to referendum as provided in subdivision (c).

(c) If the secretary determines that a referendum procedure is appropriate, the secretary shall establish a referendum period of not to exceed 30 days during which period ballots shall be submitted to all producers, producer-handlers, and handlers on a statewide basis. If the secretary determines that the referendum period does not provide sufficient time for the balloting, the secretary may extend the referendum for an additional period not to exceed 30 days. The ballots shall provide a ''yes'' or ''no'' voting alternative to the question:

''Shall the Dairy Council of California be continued for the next five fiscal years commencing July 1 following this referendum?''

SEC. 5. Section 64321 of the Food and Agricultural Code is amended to read:

64321. If the council program is submitted to a referendum, the secretary shall find that producers, handlers, and producer-handlers statewide have assented to the council program if he or she finds both of the following:

(a) Sixty-five percent or more of the total number of handlers, including producer-handlers, voting approve the program.

(b) (1) Not less than 51 percent of the total number of eligible producers, including producer-handlers, in the state voted in the referendum.

(2) Sixty-five percent or more of the total number of eligible producers, including producer-handlers, who voted in the referendum and who produced 51 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the commencement of the referendum period by all producers who voted in the referendum approve the program, or 51 percent or more of the total number of eligible producers who voted in the referendum and who produced 65 percent or more of the total amount of fluid milk produced

during the second calendar month preceding the month of the commencement of the referendum period by all producers who voted in the referendum, approve the program.

SEC. 6. Section 64321.5 of the Food and Agricultural Code is amended to read:

64321.5. If the secretary finds that producers, handlers, and producer-handlers have not assented to the council program pursuant to Section 64321, the program may be resubmitted to a referendum as prescribed herein within a period of not less than 60 days and not more than 180 days after the secretary announces the plan was not approved.

SEC. 7. Section 64322 of the Food and Agricultural Code is amended to read:

64322. (a) If the council program has been submitted to referendum pursuant to procedures prescribed in Section 64321 and the secretary finds that producers, handlers, and producer-handlers have not assented to the program, or if the program is resubmitted pursuant to Section 64321.5 and the secretary finds that assent is again not forthcoming, operations of the provisions of this chapter and of the council shall be suspended commencing July 1 following the referendum or referendums.

(b) After the effective date of suspension of the operation of the provisions of this chapter and of the council, the operations of the council shall be wound up, and any real and personal property held in the name of the council shall be liquidated and the proceeds, along with any and all remaining money held by the council, collected by assessment and not required to defray the expenses of winding up and terminating operations of the council, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding three months. However, if the secretary finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

CHAPTER 299

An act to amend Section 12419.3 of the Government Code, and to amend Sections 1269, 1271, 1274.10, 9614, and 15079 of, and to add Section 1271.5 to, the Unemployment Insurance Code, related to unemployment compensation.

[Approved by Governor September 1, 2000. Filed with
Secretary of State September 5, 2000.]

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

SECTION 1. Section 12419.3 of the Government Code is amended to read:

12419.3. The Controller shall offset delinquent accounts against personal income tax refunds which have been certified by the Franchise Tax Board, in the following priority:

(a) The nonpayment of child or family support accounts enforced by a district attorney.

(b) The nonpayment of child or family support accounts enforced by someone other than a district attorney.

(c) The nonpayment of spousal support accounts enforced by a district attorney.

(d) The nonpayment of spousal support accounts enforced by someone other than a district attorney.

(e) The benefit overpayment accounts administered by the Employment Development Department if no signed reimbursement agreement exists, or if two consecutive payments on a reimbursement agreement are delinquent at any time.

(f) The other offset accounts in the priority determined by the Controller.

SEC. 2. Section 1269 of the Unemployment Insurance Code is amended to read:

1269. A determination of potential eligibility for benefits under this article shall be issued to an unemployed individual if the director finds that any of the following apply:

(a) The training is authorized by the federal Workforce Investment Act or by the Employment Training Panel established pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(b) The training is authorized by the federal Trade Act of 1974, as amended (19 U.S.C. Sec. 2101 et seq.), pursuant to a certified petition.

(c) The individual is a participant in the California Work Opportunity and Responsibility to Kids (CalWORKs) program pursuant to Article 3.2 (commencing with Section 11320) or Article 3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, and has entered into a contract with the county welfare department to participate in an education or training program.

(d) That all of the following apply:

(1) The individual has been unemployed for four or more continuous weeks, or the individual is unemployed and unlikely to return to his or her most recent workplace because work opportunities in the

individual's job classification are impaired by a plant closure or a substantial reduction in employment at the individual's most recent workplace, by advancement in technological improvements, by the effects of automation and relocation in the economy, or because of a mental or physical disability which prohibits the individual from utilizing existing occupational skills.

(2) One of the substantial causes of the individual's unemployment is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity and that the lack of employment opportunities is expected to continue for an extended period of time, or, if the individual's occupation is one for which there is a seasonal variation in demand in the labor market and the individual has no other skill for which there is current demand.

(3) The training or retraining course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the labor market area in this state in which the individual intends to seek work and there is not a substantial surplus of workers with requisite skills in the occupation in that area.

(4) If the individual is a journey level union member, the training or retraining course of instruction is specific job-related training necessary due to changes in technology, or necessary to retain employment or to become more competitive in obtaining employment.

(5) The training or retraining course of instruction is one approved by the director and can be completed within one year.

(6) The training or retraining course is a full-time course prescribed for the primary purpose of training the applicant in skills that will allow him or her to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of any degree from a college, community college, or university.

(7) The individual can be reasonably expected to complete the training or retraining successfully.

(8) The beginning date of training is more than three years after the beginning date of training last approved for the individual under this subdivision.

SEC. 3. Section 1271 of the Unemployment Insurance Code is amended to read:

1271.

(a) Any unemployed individual receiving unemployment compensation benefits payable under this division, who applies for a determination of potential eligibility for benefits under this article no later than the 16th week of his or her receiving these benefits, and is determined eligible for benefits under this article, is entitled to a training

extension on his or her unemployment compensation claim, if necessary, to complete approved training.

(b) The training extension shall provide the claimant with a maximum of 52 times the weekly benefit amount, which shall include the maximum benefit award on the parent unemployment compensation claim.

(c) The parent unemployment compensation claim shall be the unemployment compensation claim in existence at the time the claimant is determined eligible for benefits pursuant to subdivision (a).

(d) Benefits payable under this section are subject to the following limitations:

(1) The individual shall remain eligible for benefits under this article for all weeks potentially payable under this section.

(2) The individual shall file any unemployment compensation claim to which he or she becomes entitled under state or federal law, and shall draw any unemployment compensation benefits on that claim until it has expired or has been exhausted, in order to maintain his or her eligibility under this article.

(3) To the extent permitted by federal law, benefits payable under any federal unemployment compensation law shall be included as benefits payable under this section.

SEC. 4. Section 1271.5 is added to the Unemployment Insurance Code, to read:

1271.5. (a) The department shall inform all individuals who claim unemployment compensation benefits in this state of the benefits potentially available under this article and Section 1271. The department may convey this information verbally or in written form. If in written form, the department may utilize publications or handbooks that inform individuals of their rights and duties in regard to unemployment compensation benefits. These publications, issued by the department pursuant to authorized regulations, may be used to satisfy the requirements of this section.

(b) Benefits paid under Section 1271 shall be charged to individual employer reserve accounts, consistent with the provisions of this code.

SEC. 5. Section 1274.10 of the Unemployment Insurance Code is amended to read:

1274.10. This article shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends the date.

SEC. 6. Section 9614 of the Unemployment Insurance Code is amended to read:

9614. Notwithstanding any other provision of law, the department shall annually issue an evaluation of the Job Agent Program to the

Governor and the Legislature. This report shall be issued by December 1 of each year.

SEC. 7. Section 15079 of the Unemployment Insurance Code is amended to read:

15079. (a) In order to maximize employment and training services to displaced workers, it is the intent of the Legislature that unemployment insurance benefits be payable to unemployed workers enrolled in retraining, in accordance with Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1 of Division 1. As part of its education and job training report card program, the State Job Training Coordinating Council, or its successor, shall annually report on program outcomes. Beginning in 2001, the report shall include, at a minimum, the number of individuals who complete training, a demographic profile of these individuals, the percentage of these individuals who are found in California unemployment insurance covered employment after the training, the rate of change in the unemployment status of these individuals, the amount of the Unemployment Insurance Fund benefits paid to program participants, and any other data deemed relevant.

(b) Service delivery areas may provide, to the extent permitted by federal law, needs-related payments to eligible dislocated workers who do not qualify for, or have exhausted, unemployment insurance benefits, in order to enable these workers to participate in job training and education programs authorized by this chapter.

CHAPTER 300

An act to amend Sections 18987, 18987.15, 18987.16, 18987.17, 18987.2, 18987.3, 18987.36, 18987.4 and 18987.5 of the Welfare and Institutions Code, relating to children.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The Youth Pilot Program, implemented under the authority of Chapter 951 of the Statutes of 1993, has shown promise as a method of increasing state support for local integration of services to high-risk, multineed children and families.

(b) A number of factors, including a lack of flexibility in federal programs and funding, delays in state approvals for local strategies, and the impact of welfare reform and reorganization efforts at the county

level have precluded adequate evaluation of the outcomes of the program within the five-year timeframe called for in the initial legislation.

(c) Several changes have occurred that would allow this evaluation to take place if the program were to be extended beyond the initial five years.

(d) A newly implemented federal initiative, Better Opportunities and Outcomes Starting Today (known as BOOST FOR KIDS), creates the opportunity to add a federal technical assistance component to this pilot program by providing a federal team to work with state and local partners for better results for children and families.

(e) State processes are in place to provide technical assistance and flexibility to counties in removing barriers to the implementation of their strategic plans.

(f) The impacts of welfare reform and county reorganizations have diminished allowing counties to focus on full implementation and evaluation of their strategic plans.

(g) Strategic plan revisions resulting from early barriers are in place in most counties and counties have revised performance indicators and outcome measures to better reflect and achieve each county's goals, objectives, and outcomes.

(h) An extension of the pilot program would provide the time necessary to fully test and evaluate the innovative strategies that have been implemented, and that are scheduled to be implemented in the last year of the initial pilot program.

SEC. 2. Section 18987 of the Welfare and Institutions Code is amended to read:

18987. (a) Notwithstanding any other provision of law related to the funding and delivery of state programs and services specified in this section, designated counties, if they comply with the provisions of this chapter, shall be authorized to transfer, to the extent possible, into a county child and family services fund, for the duration of the pilot program established by this chapter, some or all funds for the following services for children and families:

(1) Adoption services.
(2) Child abuse prevention services.
(3) Child welfare services.
(4) Delinquency prevention services.
(5) Drug and alcohol services.
(6) Eligibility determination.
(7) Employment and training services.
(8) Foster care services.
(9) Health services.
(10) Juvenile facilities.
(11) Mental health services.

(12) Probation services.

(13) Housing.

(14) Youth development services.

(15) All other appropriately identified and targeted services for children and families.

(b) Local education agencies, cities, or private, nonprofit agencies may also allocate funds to the county child and family services fund for recreation, juvenile justice, or other services provided to children and families.

(c) The county child and family services fund shall be used to fund comprehensive, integrated services for high-risk, children and families with multiple needs in alternative and innovative ways, as detailed in county strategic plans. The fund may be used to provide services in a designated geographical area within the county or to a targeted population.

SEC. 3. Section 18987.15 of the Welfare and Institutions Code is amended to read:

18987.15. The California Health and Human Services Agency shall be responsible for all of the following:

(a) Facilitating any state interagency coordination necessary for the implementation of a participating county's plan.

(b) Coordinating technical assistance to the counties participating in the pilot program.

(c) Applying to the federal government, where appropriate and feasible, for federal waivers necessary to carry out or enhance projects under the pilot program.

(d) Monitoring county compliance with the requirements of this chapter.

(e) Seeking nonstate resources to conduct county evaluations pursuant to subdivision (h) of Section 18987.3.

(f) Establishing performance outcomes for measuring the success of the state level implementation of the pilot program.

SEC. 4. Section 18987.16 of the Welfare and Institutions Code is amended to read:

18987.16. (a) The Legislature finds that an evaluation is both desirable and necessary to assess the effectiveness of the pilot program provided for in this chapter.

(b) Therefore, the California Health and Human Services Agency shall cause an evaluation of the pilot program to be conducted by an independent organization. This evaluation shall consist of a baseline and a final report. The independent evaluator shall review the updated strategic plans submitted by the counties pursuant to subdivision (f) of Section 18987.2 and, on or before June 30, 2001, shall compile a baseline report summarizing the performance outcomes and indicators

chosen by each of the six participating counties. This report shall also list the performance outcomes against which state performance in the pilot program shall be evaluated. A final evaluation of the pilot program shall be submitted to the Governor and the Legislature on June 30, 2003. This evaluation shall include an analysis of county performance outcomes as compared to baseline performance, an analysis of state performance outcomes in implementing the pilot program, and a discussion of whether these state actions were associated with improved outcomes at the local level as reported in the county evaluations submitted pursuant to subdivision (c) of Section 18987.36. The California Health and Human Services Agency shall seek the advice and input of the Legislature on the framework of the evaluation.

SEC. 5. Section 18987.17 of the Welfare and Institutions Code is amended to read:

18987.17. (a) Pursuant to this chapter, the California Health and Human Services Agency or the Secretary of the Youth and Adult Correctional Agency, as appropriate, may approve a request submitted by a county selected pursuant to Section 18987.05, to implement an alternative method for meeting specific state statutory requirements in the county's strategic plan. The secretary of the approving agency shall only approve a request when the coordinating council of the requesting county has certified, and the secretary has determined, that all of the following criteria have been met:

(1) The council has developed a specific alternative method for achieving the intent of the statute in question.

(2) The council's proposed alternative is consistent with this chapter and the intent of the statutory requirements governing the programs proposed for integration in the county's strategic plan.

(3) Approval of the request is essential to achieve one or more objectives of the strategic plan.

(4) The objective of the strategic plan cannot be achieved solely through waiver of regulation.

(b) A request subject to this section may not be approved for a period that exceeds the length of the pilot program authorized under this chapter, but may be approved for a shorter period as determined by the approving secretary.

(c) Prior to approving any request by a county under this section, the approving secretary shall provide written notification to the chairperson of the appropriate policy committee in each house of the Legislature. Final approval shall not occur until 30 days after this written notification is provided.

SEC. 6. Section 18987.2 of the Welfare and Institutions Code is amended to read:

18987.2. (a) (1) In order to participate in the pilot program authorized by this chapter, a county board of supervisors shall establish a child and family interagency coordinating council.

(2) A council established pursuant to this subdivision shall plan, implement, monitor, and evaluate the pilot program.

(b) A county board of supervisors may designate an existing interagency coordination council to perform the functions specified in paragraph (2) of subdivision (a) if the existing interagency coordination council meets the representation requirements of Section 18987.25.

(c) City and local education agency representatives shall be appointed by the appropriate governing bodies.

(d) The board of supervisors shall undertake reasonable measures to ensure that membership of the interagency coordinating council reflects the cultures and ethnicities of the pilot program area.

(e) The board of supervisors of a county, as a condition of participation in the pilot program, shall approve both the strategic plan developed pursuant to Section 18987.3 and the county's participation in the pilot program authorized by this chapter. If city or school services or funds are included in the pilot program, the strategic plan shall also be approved by the governing bodies of any city or local education agency whose services or funds will be involved in the pilot program.

(f) Counties desiring to participate in the extended pilot program shall submit to the California Health and Human Services Agency updated strategic plans, including, but not limited to, updated performance outcomes and indicators, not later than March 31, 2001.

SEC. 7. Section 18987.3 of the Welfare and Institutions Code is amended to read:

18987.3. Each child and family interagency coordinating council shall develop a strategic plan for implementation of the pilot program. The plan shall contain all of the following:

(a) A list of the members of the county child and family interagency coordinating council, and a description of project responsibilities for each member.

(b) Identification of the county or the area within the county to be served by blended funds.

(c) A description of the population to be served, the amount and types of current services available from public, private not-for-profit, and community-based services agencies, the needs of that population, and the goals, objectives, and outcomes of the services to be provided.

(d) A timeline showing how the county proposes to implement the pilot project.

(e) A description of existing collaborative, integrated services efforts and how the strategies proposed for the pilot program will be used in conjunction with these efforts.

(f) A description of the services to be funded by the county child and family services fund.

(g) An identification of the state and local funds to be consolidated and how those blended funds shall be used.

(h) (1) A description of an evaluation plan that meets all of the following requirements:

(A) It is based on community needs and service plans.

(B) It includes baseline data and performance indicators and outcomes relevant to services funded by the county child and family services fund.

(C) It measures outcomes for children, families, and communities targeted by the pilot project.

(D) It utilizes, where applicable, state-adopted performance and outcome measures developed for specific populations included in the county plan.

(2) The evaluation shall also identify obstacles encountered in implementation of the pilot program.

SEC. 8. Section 18987.36 of the Welfare and Institutions Code is amended to read:

18987.36. The board of supervisors of each participating county shall submit to the California Health and Human Services Agency all of the following:

(a) An annual report showing which funds were transferred into the county child and family services fund and an annual status update indicating the extent to which the plan has been implemented.

(b) Interim evaluation reports on the implementation and measurements of progress toward performance outcomes of the pilot program, to be submitted following the second and fourth year, and not later than six months after the sixth year of the implementation of the pilot program.

(c) A final evaluation of the pilot program, to be submitted not later than six months prior to the completion of the pilot program.

SEC. 9. Section 18987.4 of the Welfare and Institutions Code is amended to read:

18987.4. (a) (1) There is hereby created in the State Treasury the Youth Pilot Program Fund. State and federal moneys that, if distributed to a designated county, could be transferred to a county child and family services fund, may be transferred, at the direction of the designated county, to the Youth Pilot Program Fund for the purposes specified in subdivision (c) of Section 18987. Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal years, to the State Department of Social Services to be allocated to and expended by counties in accordance with county strategic plans developed pursuant to Section 18987.3.

(2) The Director of Finance may authorize the transfer of funds appropriated pursuant to the following items of the Budget Act of 1996 and budget acts thereafter to implement this section.

(A) State Department of Health Services, Item 4260-101-0001 or Item 4260-111-0001, or any combination thereof.

(B) State Department of Mental Health, Item 4440-101-0001(c) (Program 10.47, Children's Mental Health Services) or Item 4440-131-0001 (Program 10.80, Special Education Pupils Program), or any combination thereof.

(C) State Department of Social Services, Item 5180-101-0001, Item 5180-141-0001, or Item 5180-151-0001 or any combination thereof.

(3) Amounts transferred pursuant to paragraph (2) shall be limited to those amounts that would otherwise be allocated to those designated counties.

(b) The Director of Finance shall provide written notification to the chairperson of the appropriate budget and policy committees in each house of the Legislature upon transfer of any funds into the Youth Pilot Program Fund.

(c) Moneys in the fund shall be available for encumbrance until July 1, 2006, at which time all unencumbered moneys in the fund shall revert to the General Fund.

(d) It is the intent of the Legislature to continue the commitment to maximize federal matching funds for state and county programs.

(e) It is the intent of the Legislature that the Youth Pilot Program Fund shall be continuously appropriated only for the purpose of implementing the Youth Pilot Program pursuant to this chapter, and a continuously appropriated fund shall not be used to implement the provisions of this chapter, should they be extended beyond the pilot program.

(f) This section shall remain operative only until July 1, 2004, 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. 10. Section 18987.5 of the Welfare and Institutions Code is amended to read:

18987.5. This chapter shall remain operative only until July 1, 2004, shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 301

An act to amend Sections 1047 and 1048 of, and to add Section 1044.5 to, the Military and Veterans Code, relating to veterans homes.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 1044.5 is added to the Military and Veterans Code, to read:

1044.5. (a) A resident of a veterans home has the right to complain and otherwise exercise the freedom of expression and assembly guaranteed by the Sections 2 and 3 of Article I of the California Constitution and the First Amendment to the United States Constitution. The administrator of the home shall inform each resident in writing at the time of admission of the right to complain to the administrator about home accommodations and services. A notice of the right to complain shall be posted in the home. The administrator shall also inform each resident of the right to complain to the board or to the Secretary of Veterans Affairs. Each resident of a home shall be encouraged and assisted, throughout the period of stay in the home, to understand and exercise the rights of freedom of expression and assembly as a resident and as a citizen. To this end, the resident may voice grievances and recommend changes in policies and services to home staff, other residents, and outside representatives of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal, including retaliatory eviction.

(b) An administrator may not retaliate against any resident who exercises the right to voice grievances by evicting the resident. There shall be a rebuttable presumption that any eviction within 45 days of the exercise by a resident of the right to voice grievances is retaliatory. This presumption does not apply in favor of a resident who has failed to pay maintenance fees unless the resident pays the overdue fees.

SEC. 2. Section 1047 of the Military and Veterans Code is amended to read:

1047. (a) The administrator shall maintain a Morale, Welfare, and Recreation Fund that shall be used, at the discretion of the administrator and subject to the approval of the secretary, to provide for the general welfare of the veterans, including, but not limited to, providing for operations of the Veterans' Home Exchange, hobby shop, motion picture theater, library, band, and any other function that is operated for the morale, welfare, and recreation of the veterans, and to pay for newspapers, chapel expenses, welfare and entertainment expenses, sport

activities, celebrations, and any other activity that is for the morale, welfare, and recreation of the veterans.

(b) Money in the Morale, Welfare, and Recreation Fund may not be expended for any of the following:

(1) Medical treatments or any other related treatment.

(2) Maintenance of the physical plant of the home.

(3) Any function, operation, or activity that is not directly related to the morale, welfare, or recreation of the veterans.

(c) Appropriations from the General Fund for the purposes described in paragraph (3) of subdivision (b) may not be reduced for the purpose of, or to have the effect of, requiring increased expenditures from the Morale, Welfare, and Recreation Fund for those described purposes.

(d) The administrator shall prepare an itemized report that is organized by category and accounts for all expenditures made from the Morale, Welfare, and Recreation Fund during the previous fiscal year and shall submit the report on or before August 20 of each year to all of the following:

(1) The secretary.

(2) The fiscal committees of the Assembly and the Senate.

(3) The committees of the Assembly and the Senate that have subject matter jurisdiction over veterans' affairs.

(4) The Veterans' Home Allied Council.

SEC. 3. Section 1048 of the Military and Veterans Code is amended to read:

1048. (a) The Moral, Welfare, and Recreation Fund shall include proceeds from operations of the Veterans' Home Exchange, revenue derived from the issuance of prisoner-of-war special license plates pursuant to Section 5101.5 of the Vehicle Code, all funds derived from golf course green fees and range ball fees, all donations to the fund, interest earned on invested funds, funds derived from the estates of deceased members, and any other moneys or property described in this chapter, including, but not limited to, moneys and properties received by the home from estate assets located outside the home, regardless of amount.

(b) The administrator shall prepare an itemized report that is organized by category and accounts for all funds deposited into the Morale, Welfare, and Recreation Fund and transmitted to the Controller under Section 1047 during the previous fiscal year and shall submit the report on or before August 20 of each year to all of the following:

(1) The secretary.

(2) The fiscal committees of the Assembly and the Senate.

(3) The committees of the Assembly and the Senate that have subject matter jurisdiction over veterans' affairs.

(4) The Veterans' Home Allied Council.

CHAPTER 302

An act to add Section 5.5 to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), relating to the San Diego Unified Port District.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 5.5 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to read:

5.5. (a) There is hereby granted and conveyed in trust to the San Diego Unified Port District in the County of San Diego all the right, title, and interest of the State of California, except as hereafter reserved and upon conditions specified in subdivision (c), acquired and held by the state pursuant to an agreement and deeds identified as Documents Number 1999 0845732, 1999 0845736, and 1999 0845737, recorded December 30, 1999, Official Records, San Diego County, and which are further described as follows:

(1) Parcel No. 1, which consists of that portion of the southwest quarter of the southwest quarter of quarter Section 163 and that portion of the northwest quarter of the northwest quarter of quarter Section 164 of Rancho De La Nacion in the City of Chula Vista, County of San Diego, State of California, according to map thereof no. 166 filed in the Office of the County Recorder of San Diego County May 11, 1869, and all of lots 7, 8, 9, 10, and 11 and those portions of lots 1, 2, 3, 4, 5, 6, 12, 13, 14, and 15 in block ''B'' of resubdivision of Bay Villa Tract, according to map thereof no. 1198, filed in the Office of the County Recorder of San Diego County August 6, 1909. Together with those portions of Walnut Street adjoining said block ''B'' on the west and the alley lying within said block ''B'' and that portion of ''I'' Street lying within said quarter Sections 163 and 164 as vacated and closed to public use by resolution of the City Council of the City of Chula Vista recorded August 12, 1971, as file no. 179188 of official records described as a whole as follows:

Beginning at a point on the southerly line of said quarter Section 163, distance thereon 20.00 feet easterly from the southwest corner thereof; thence north 17°46′58″ west on a line 20.00 feet easterly from and

parallel with the westerly line of said quarter Section 163, a distance of 1282.11 feet to a point on the southerly line of ''H'' Street as shown on said map no. 1198; thence along said southerly line north 72°12′15″ east 19.89 feet to a point on the westerly line of that land conveyed to the State of California (Caltrans) by deed recorded August 1, 1968, as file no. 130106 of official records; thence along the westerly boundary of said Caltrans land the following seven courses: (1) south 17°48′37″ east 5.95 feet; (2) north 74°58′17″ east 188.10 feet to the beginning of a tangent 45.00 foot radius curve concave southwesterly; (3) southeasterly along the arc of said curve through a central angle of 73°18′01″ a distance of 57.57 feet; (4) tangent to said curve south 31°43′55″ east 181.34 feet; (5) south 26°51′03″ east 342.59 feet to the beginning of a tangent 1669.99 foot radius curve concave westerly; (6) southerly along the arc of said curve through a central angle of 14°20′28″ a distance of 418.00 feet; and (7) south 12°30′35″ east 303.54 feet to the centerline of ''I'' Street as closed and vacated; thence along said centerline south 72°15′16″ west 332.90 feet to the point of beginning.

(2) Parcel No. 2, which consists of those portions of fractional quarter Section 170 and 171 of the Rancho De La Nacion in the City of Chula Vista, in the County of San Diego, State of California, according to map thereof by Morrill, filed as map no. 166 filed in the Office of the County Recorder of San Diego County, bounded and described as follows:

Commencing at the Northeast corner of said fractional quarter Section 171; thence south 17°54′28″ east along the easterly line of said fractional quarter section, 1270.95 feet to a point on a line nine feet parallel to and northerly of the westerly prolongation of the northerly line of ''H'' Street as said street is shown on the map of Bay Villa Tract, according to map thereof no. 1198, on file in the Office of the County Recorder of San Diego County; thence south 72°12′00″ west along said parallel line, a distance of 170.00 feet to the true point of beginning of this description; thence parallel with and distant 170.00 feet westerly from the easterly line of said fractional quarter sections, the following three courses and distances: (1) south 17°54′28″ east 49.14 feet; (2) south 17°47′12″ east 1321.96 feet; and (3) south 17°50′01″ east 1283.10 feet to a point in the westerly prolongation of the northerly line of ''J'' Street, as shown on record of survey no. 917 on file in the Office of the County Recorder of San Diego County; thence along said westerly prolongation south 72°04′39″ west 593.24 feet to a point on the ordinary high water mark of San Diego Bay, as said ordinary high water mark was fixed and established by that agreement recorded June 22, 1953, in book 4897, page 408, of official records, San Diego County and as shown on miscellaneous map no. 217 on file in the Office of the County Recorder of San Diego County; thence along said ordinary high water mark the following eight courses and distances: (1) north 07°04′12″ west 491.51

feet to station 117; (2) north 04°01′57″ west 568.80 feet to station 116; (3) north 14°12′27″ west 489.77 feet to station 115; (4) north 22°26′52″ west 184.97 feet to station 114; (5) north 57°45′31″ west 230.80 feet to station 113; (6) north 20°56′53″ west 453.58 feet to station 112; (7) north 24°18′00″ west 233.28 feet to station 111; and (8) north 30°20′10″ west 87.43 feet to a point on a line nine feet parallel to and northerly of the westerly prolongation of the northerly line of ''H'' Street as described; thence along said parallel line north 72°12′00″ east 568.65 feet to the true point of beginning.

(b) The lease of the lands described in subdivision (a), designated No. PRC 8121, from the State Lands Commission to the district shall terminate on January 1, 2001.

(c) The district shall own, operate, and manage the public trust lands described in subdivision (a) in accordance with the same terms, trusts, and conditions as the tide and submerged lands granted to it and held pursuant to Chapter 67 of the Statutes of 1962 of the First Extraordinary Session, as amended.

CHAPTER 303

An act to repeal and add Section 2508 of the Business and Professions Code and to amend Section 102415 of the Health and Safety Code, relating to midwifery.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 2508 of the Business and Professions Code is repealed.

SEC. 2. Section 2508 is added to the Business and Professions Code, to read:

2508. (a) A licensed midwife shall disclose in oral and written form to a prospective client all of the following:

(1) All of the provisions of Section 2507.

(2) If the licensed midwife does not have liability coverage for the practice of midwifery, he or she shall disclose that fact.

(3) The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary.

(4) The procedure for reporting complaints to the Medical Board of California.

(b) The disclosure shall be signed by both the licensed midwife and the client and a copy of the disclosure shall be placed in the client's medical record.

(c) The Medical Board of California may prescribe the form for the written disclosure statement required to be used by a licensed midwife under this section.

SEC. 3. Section 102415 of the Health and Safety Code is amended to read:

102415. For live births that occur outside of a hospital or outside of a state-licensed alternative birth center, as defined in paragraph (4) of subdivision (b) of Section 1204, the physician in attendance at the birth or, in the absence of a physician, the professionally licensed midwife in attendance at the birth or, in the absence of a physician or midwife, either one of the parents shall be responsible for entering the information on the certificate, securing the required signatures, and for registering the certificate with the local registrar.

SEC. 4. The Legislature finds and declares that:

(a) Childbirth is a normal process of the human body and not a disease.

(b) Every woman has a right to choose her birth setting from the full range of safe options available in her community.

(c) The midwifery model of care emphasizes a commitment to informed choice, continuity of individualized care, and sensitivity to the emotional and spiritual aspects of childbearing, and includes monitoring the physical, psychological, and social well-being of the mother throughout the childbearing cycle; providing the mother with individualized education, counseling, prenatal care, continuous hands-on assistance during labor and delivery, and postpartum support; minimizing technological interventions; and identifying and referring women who require obstetrical attention.

(d) Numerous studies have associated professional midwifery care with safety, good outcomes, and cost-effectiveness in the United States and in other countries. California studies suggest that low-risk women who choose a natural childbirth approach in an out-of-hospital setting will experience as low a perinatal mortality as low-risk women who choose a hospital birth under management of an obstetrician, including unfavorable results for transfer from the home to the hospital.

(e) The midwifery model of care is an important option within comprehensive health care for women and their families and should be a choice made available to all women who are appropriate for and interested in home birth.

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 304

An act to amend Sections 66 and 67 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 66 of the Military and Veterans Code is amended to read:

66. All members of the board shall be veterans as ''veteran'' is defined in Section 18540.4 of the Government Code. One of these members shall also be retired from the active or reserve forces of the United States military service. One of these members shall also be a resident of a California veterans home. This subdivision shall not be construed to prohibit a member of the board who does not meet this requirement from serving the remainder of his or her term.

SEC. 2. Section 67 of the Military and Veterans Code is amended to read:

67. (a) Of the members as appointed, except as provided in subdivision (b), one shall be appointed for a term expiring January 15, 1947, two for terms expiring January 15, 1948, two for terms expiring January 15, 1949, and two for terms expiring January 15, 1950. Subsequent appointments shall be for terms of four years.

(b) The member of the board who is a resident of a California veterans home shall be appointed for a term expiring January 15, 2004. Subsequent appointments shall be for terms of two years. The appointments shall be made on a rotational basis based on the age of the home, beginning with the oldest veterans home.

(c) Vacancies shall be immediately filled by the Governor for the unexpired portion of the terms in which they occur.

CHAPTER 305

An act relating to health care.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. The Legislative Analyst shall review existing data and research relating to the cost effectiveness of substance abuse treatment parity in health care service plans and disability insurance policies and shall report its findings to the Legislature. The Legislative Analyst shall also review existing research and survey a sample of health care service plans in order to report to the Legislature on the range and utilization of substance abuse treatment services offered by health care service plans and disability insurance policies in California and the impact on the costs of these services to the employer or employee. The Legislative Analyst shall also review existing information on private resources available statewide that provide alcohol and drug treatment services, survey and catalogue organizations statewide that provide alcohol and drug treatment, including community-based and faith-based organizations, and the number of clients served by these organizations, and report its findings to the Legislature.

CHAPTER 306

An act to amend Sections 1228.1, 1228.2, 1228.3, 1228.5, 1228.8, and 1228.9 of, and to amend the heading of Article 2.7 (commencing with Section 1228) of Chapter 1 of Part 2 of Division 2 of, the Water Code, relating to water.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. The heading of Article 2.7 (commencing with Section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code is amended to read:

Article 2.7. Registration of Appropriations for Small Domestic and Livestock Stockpond Uses

SEC. 2. Section 1228.1 of the Water Code is amended to read:

1228.1. (a) The Legislature finds and declares that it is in the public interest to provide a timely, efficient, and economic procedure for the acquisition of rights to appropriate water for a small domestic use, including incidental stockwatering and irrigation uses, and for livestock stockponds subject to prior rights.

(b) As used in this article, ''small domestic use'' means a domestic use, not to exceed direct diversion of 4500 gallons per day or diversion by storage of 10 acre-feet per annum, as that use is defined by board rule, and shall include impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.

(c) As used in this article, ''livestock stockpond'' means a water impoundment structure constructed for livestock watering use not to exceed direct diversion of 4500 gallons per day, or diversion by storage of 10 acre-feet per year, as that use is defined by the board, and including impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.

SEC. 3. Section 1228.2 of the Water Code is amended to read:

1228.2. (a) (1) Subject to subdivision (b), any person may obtain a right to appropriate water for a small domestic or livestock stockpond use upon first registering the use with the board and thereafter applying the water to reasonable and beneficial use with due diligence.

(2) With regard to an appropriation for small domestic use, not more than one registration shall be in effect at any time for any facility.

(3) With regard to an appropriation for livestock stockpond use, more than one registration may be in effect at any time for a registrant if stockponds subject to registration for that registrant do not exceed the ratio of one per 50 acres.

(b) Initiation of rights to appropriate water pursuant to this article shall be subject to Article 1.3 (commencing with Section 1205), relating to fully appropriated stream systems. The board shall not accept any registration of water use which proposes as a source of water supply any stream system which has been unconditionally declared by the board to be fully appropriated pursuant to Section 1205, except that subdivision (b) of Section 1206, relating to conditional declarations of fully

appropriated stream systems, shall apply to registration of water use pursuant to this article, and the board shall accept those registrations where consistent with the conditions specified in any such declaration.

(c) On or before June 30, 1989, and annually thereafter, the Division of Water Rights shall prepare and submit to the board a report summarizing the location, nature, and amount of water appropriated pursuant to this article. The report shall include a description of the availability of unappropriated water in those stream systems which may become fully appropriated within the next reporting period.

(d) Whenever it can be reasonably anticipated that a stream system may become fully appropriated within the next reporting period, the board shall, following notice and hearing, determine whether that stream system should be declared fully appropriated pursuant to Article 1.3 (commencing with Section 1205).

SEC. 3.5. Section 1228.3 of the Water Code is amended to read:

1228.3. (a) Registration of water use pursuant to this article shall be made upon a form prescribed by the board. The registration form shall set forth all of the following:

(1) The name and post office address of the registrant.

(2) The source of water supply.

(3) The nature and amount of the proposed use.

(4) The proposed place of diversion.

(5) The place where it is intended to use the water.

(6) The time for completion of construction of diversion works and for complete application of the water to the proposed use.

(7) A certification that the registrant has contacted a representative of the Department of Fish and Game designated by that department for that purpose, has provided information to that department which is set forth in the registration form, and has agreed to comply with all lawful conditions, including, but not limited to, conditions upon the construction and operation of diversion works, required by the Department of Fish and Game. The certification shall include a copy of any conditions required by the Department of Fish and Game pursuant to this paragraph.

(8) Any other information that may reasonably be required by the board.

(b) Registration of water use shall be deemed completed on the date that the form, executed in substantial compliance with the requirements of this section, and the registration fee specified in subdivision (a) of Section 1228.8 are received by the board.

(c) The board shall issue monthly a list of registrations filed under this article during the preceding calendar month. This list shall contain the information required by paragraphs (1) to (6), inclusive, of subdivision (a). The list shall set forth a date prior to which any interested person

may file a written protest in opposition to the approval of a stockpond registration. That date shall be not later than 30 days from the date on which the list is issued. The board shall mail the monthly list of registrations filed to any person who so requests.

(d) Prior to the date set forth on the list required under subdivision (c), any interested person may file with the board a written protest in opposition to the approval of a stockpond registration. The protest shall clearly set forth the protestant's objections to the registered use based on interference with prior rights. The protest shall be served on the registrant by the protestant by mailing a duplicate copy of the protest to the registrant, or through service undertaken in another manner determined to be adequate by the board. The procedures set forth in Article 1.5 (commencing with Section 1345) of Chapter 5 shall be used for reviewing a protested registration.

SEC. 4. Section 1228.5 of the Water Code is amended to read:

1228.5. (a) Registration of a small domestic or livestock stockpond use pursuant to this article shall be renewed prior to the expiration of each five-year period following completed registration.

(b) Renewal of registration shall be made upon a form prescribed by the board and shall contain such report of water use made pursuant to the registration as may be required by the board.

(c) The conditions established by the board pursuant to Section 1228.6 which are in effect at the time of renewal of registration shall supersede the conditions which were applicable to the original completed registration.

(d) Failure to renew registration in substantial compliance with the reporting requirements prescribed by the board within the time period specified in subdivision (a), or to pay the renewal fee specified in subdivision (b) of Section 1228.8, shall result by operation of law in the revocation of any right acquired pursuant to this article.

SEC. 5. Section 1228.8 of the Water Code is amended to read:

1228.8. (a) Every person registering a small domestic or livestock stockpond use of water shall pay to the board a registration fee of one hundred dollars ($100).

(b) Every person renewing registration of a small domestic or livestock stockpond use of water shall pay to the board a renewal fee of fifty dollars ($50).

SEC. 6. Section 1228.9 of the Water Code is amended to read:

1228.9. With regard to a small domestic use of water, no right to appropriate or use water subject to appropriation may be initiated on and after January 1, 1989, except upon compliance with this article, and this article shall be the exclusive means of acquiring and maintaining that right. Nothing in this article shall be construed as affecting any right initiated or acquired pursuant to permit or evidenced by license, and

including any application filed but not permitted, prior to January 1, 1989.

CHAPTER 307

An act to amend Sections 51345 and 51348 of the Health and Safety Code, relating to housing.

[Approved by Governor September 1, 2000. Filed with Secretary of State September 5, 2000.]

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

SECTION 1. Section 51345 of the Health and Safety Code is amended to read:

51345. (a) The agency shall administer a home purchase assistance program in accordance with this chapter. The purpose of the home purchase assistance program is to assist first-time homebuyers to utilize existing mortgage financing available pursuant to this part or Division 4 (commencing with Section 800) of the Military and Veterans Code with the additional financial resources made available pursuant to Part 8 (commencing with Section 53130).

(b) Home purchase assistance under this chapter shall include, but not be limited to: (1) an interest rate subsidy to reduce the interest rate, (2) a deferred-payment, low-interest, second-mortgage loan to reduce the principal and interest payments, and (3) downpayment assistance to make financing affordable to first-time homebuyers.

(c) In no case shall the interest rate subsidy reduce the effective interest rate to the borrower below 3 percent per annum, nor shall the deferred-payment, low-interest, second mortgage loan exceed 49 percent of the total debt financing necessary to purchase the home.

(d) The amount of home purchase assistance shall be a second mortgage loan secured by a deed of trust of second priority to the primary financing provided by the agency or the Department of Veterans Affairs. The term of the home purchase assistance shall not exceed the term of the primary loan.

(e) The amount of home purchase assistance shall be due and payable at the end of the term, upon the sale of the home, or upon refinancing. The borrower may refinance the mortgages on the home if the principal of and accrued interest on the second mortgage loan securing the home purchase assistance are repaid in full. All repayments shall be deposited in the fund.

SEC. 2. Section 51348 of the Health and Safety Code is amended to read:

51348. It is the intent of the Legislature that no more than 50 percent of the home purchase assistance provided under this chapter shall be for the purchase of homes that have not been previously occupied.

CHAPTER 308

An act to amend Sections 322, 23116, and 31405 of, and to add Sections 31406, 31407, and 31409 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 322 of the Vehicle Code is amended to read:

322. (a) A ''farm labor vehicle'' is any motor vehicle designed, used, or maintained for the transportation of nine or more farmworkers, in addition to the driver, to or from a place of employment or employment-related activities.

(b) For the purpose of this section, a farmworker is any person engaged in rendering personal services for hire and compensation in connection with the production or harvesting of any farm products.

(c) ''Farm labor vehicle'' does not include:

(1) Any vehicle carrying only members of the immediate family of the owner or driver thereof.

(2) Any vehicle while being operated under specific authority granted by the Public Utilities Commission or under specific authority granted to a transit system by an authorized city or county agency.

SEC. 2. Section 23116 of the Vehicle Code is amended to read:

23116. (a) No person driving a pickup truck or a flatbed motortruck on a highway shall transport any person in or on the back of the truck.

(b) No person shall ride in or on the back of a truck or flatbed motortruck being driven on a highway.

(c) Subdivisions (a) and (b) do not apply if the person in the back of the truck is secured with a restraint system. The restraint system shall meet or exceed the federal motor vehicle safety standards published in Sections 571.207, 571.209, and 571.210 of Title 49 of the Code of Federal Regulations.

(d) Subdivisions (a), (b), and (c) do not apply to any person transporting one or more persons in the back of a truck or flatbed

motortruck owned by a farmer or rancher, if that vehicle is used exclusively within the boundaries of lands owned or managed by that farmer or rancher, including the incidental use of that vehicle on not more than one mile of highway between one part of the farm or ranch to another part of that farm or ranch.

(e) Subdivisions (a), (b), and (c) do not apply if the person in the back of the truck or the flatbed is being transported in an emergency response situation by a public agency or pursuant to the direction or authority of a public agency.

As used in this subdivision, ''emergency response situation'' means instances in which necessary measures are needed in order to prevent injury or death to persons or to prevent, confine, or mitigate damage or destruction to property.

(f) Subdivisions (a) and (b) do not apply if the person in the back of the truck or flatbed motortruck is being transported in a parade that is supervised by a law enforcement agency and the speed of the truck while in the parade does not exceed eight miles per hour.

SEC. 3. Section 31405 of the Vehicle Code is amended to read:

31405. (a) Except as authorized under paragraph (1) of subdivision (e), every farm labor vehicle issued an inspection certificate under Section 31401 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) Except as authorized under paragraph (1) of subdivision (e), the department may not issue an initial inspection certificate under Section 31401 to any farm labor 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) Except as authorized under paragraph (1) of subdivision (e) or subdivision (d) of Section 23116, 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) (1) Until January 1, 2007, this section does not apply to a farm labor vehicle that meets the definition in subdivision (a) of Section 233, meets all state and federal standards for safety and construction, and is not currently required to have seatbelts.

(2) On or after January 1, 2007, any farm labor vehicle that meets the conditions set forth in paragraph (1) shall be equipped at each passenger position with a seatbelt assembly as described in subdivision (a), unless

exempted from this requirement under the regulations promulgated under Section 31401.

(f) The department shall adopt regulations to implement this section.

SEC. 4. Section 31406 is added to the Vehicle Code, to read:

31406. (a) No person may be transported in a farm labor vehicle that does not have all passenger seating positions in compliance with Section 571.207 of Title 49 of the Code of Federal Regulations, as that provision exists now or may hereafter be amended.

(b) No person may install a seat or seating system in a farm labor vehicle unless that seat or seating system is in compliance with Section 571.207 of Title 49 of the Code of Federal Regulations, as that provision exists now or may hereafter be amended.

(c) This section shall become operative on March 31, 2002.

SEC. 5. Section 31407 is added to the Vehicle Code, to read:

31407. All cutting tools or tools with sharp edges carried in the passenger compartment of a farm labor vehicle shall be placed in securely latched containers that are firmly attached to the vehicle. All other tools, equipment, or materials carried in the passenger compartment shall be secured to the body of the vehicle to prevent their movement while the vehicle is in motion. Under no circumstances shall those tools, equipment, or materials obstruct an aisle or an emergency exit.

SEC. 6. Section 31409 is added to the Vehicle Code, to read:

31409. Notwithstanding paragraph (2) of subdivision (c) of Section 322, any vehicle owned or operated by or for a public transit system that is purchased with funds appropriated pursuant to Item 2660-103-0046 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) or pursuant to Section 5309 of Title 49 of the United States Code and is used to transport farmworkers for any farmworker transportation program shall comply with the farm labor vehicle provisions contained in, and the regulations promulgated under, this chapter, relating to the following:

(a) (1) Annual farm labor vehicle inspection and certification.

(2) Following initial certification, the inspection and certification of buses designed, used, or maintained for carrying more than 15 persons, including the driver, shall be conducted during the inspection required by subdivision (c) of Section 34501.

(b) Seatbelt installation.

(c) Illumination of headlamps.

(d) Storage and securing of tools in passenger compartments.

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 309

An act relating to food banks, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. The sum of five hundred seventy-five thousand dollars ($575,000) is hereby appropriated from the General Fund to the Department of Social Services for allocation to the Emergency Food Assistance Program. This appropriation shall be in augmentation of Item 5180-001-0001 of the Budget Act of 2000. Three hundred thousand dollars ($300,000) shall be used to accept fresh and canned produce to mitigate the impact of the Tri-Valley Growers Association bankruptcy, and two hundred seventy-five thousand dollars ($275,000) shall be used by the Emergency Food Assistance Program to continue to accept, transport, and distribute United States Department of Agriculture commodities and other donated food.

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 millions of dollars worth of donated foods for needy families in California are distributed and received, it is necessary for this act to take effect immediately.

CHAPTER 310

An act to amend Sections 14172 and 14175 of the Penal Code, relating to crime prevention, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 14172 of the Penal Code is amended to read:

14172. By June 30, 2001, 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, 2001.

SEC. 2. Section 14175 of the Penal Code is amended to read:

14175. This title shall become inoperative on January 1, 2002, and, is repealed as of that date, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends the dates on which the title becomes inoperative and is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the Rural Crime Prevention Program from becoming inoperative after June 30, 2000, it is necessary that this act take effect immediately.

CHAPTER 311

An act to amend Section 50199.17 of the Health and Safety Code, and to amend Sections 17053.14 and 23608.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 50199.17 of the Health and Safety Code is amended to read:

50199.17. (a) The committee may adopt, amend, or repeal rules and regulations for the allocation of housing credits pursuant to this

chapter and Sections 12206, 17053.14, 17058, 23608.2, 23608.3, and 23610.5 of the Revenue and Taxation Code without complying with the procedural requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as described in subdivision (b).

(b) The committee shall provide a notice of proposed action as described in Section 11346.5 of the Government Code. The notice of proposed action shall be provided to the public at least 21 days before the close of the public comment period, and the committee shall schedule at least one public hearing as described in Section 11346.8 of the Government Code before the close of the public comment period. The committee shall maintain a rulemaking file as described in Section 11347.3 of the Government Code. The final version of the regulations shall be accompanied by a final statement of reasons as described in subdivision (a) of Section 11346.9 of the Government Code.

(c) These rules and regulations shall be effective immediately upon adoption by the committee.

(d) The committee may also adopt, amend, or repeal emergency rules and regulations pursuant to this chapter and pursuant to Sections 12206, 17053.14, 17058, 23608.2, 23608.3, and 23610.5 of the Revenue and Taxation Code. The adoption, amendment, or repeal of these regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

SEC. 2. Section 17053.14 of the Revenue and Taxation Code is amended to read:

17053.14. (a) For taxable years beginning on or after January 1, 1997, there shall be allowed as a credit against the ''net tax,'' as defined in Section 17039, an amount, subject to Section 42(h)(1) of the Internal Revenue Code, that is otherwise equal to the lesser of 50 percent of the eligible costs, as determined under subdivision (b), or the amount allocated under paragraph (2) of subdivision (e).

(b) (1) For purposes of this section, the ''eligible costs'' shall be equal to the total finance costs, construction costs, excavation costs, installation costs, and permit costs paid or incurred to construct or rehabilitate farmworker housing. ''Eligible costs'' include, but are not limited to, improvements to ensure compliance with laws governing access for persons with disabilities and costs related to reducing utility expenses. Noneligible costs include land and those costs financed by grants and below-market financing.

(2) For purposes of paragraph (1), construction or rehabilitation of the farmworker housing shall have commenced on or after January 1, 1997.

(3) Notwithstanding any other provision of this part, eligible costs shall not include any costs paid or incurred prior to January 1, 1997.

(c) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the taxpayer first obtains a certification from the committee that the amounts described in subdivision (b) qualify for the credit under this section and the total amount of the credit allocated to the taxpayer pursuant to the Farmworker Housing Assistance Program.

(d) The taxpayer shall do all of the following:

(1) Apply to the committee for the credit certification.

(2) Retain a copy of the certification.

(3) Make the certification available to the Franchise Tax Board upon request.

(e) The committee shall do all of the following:

(1) Provide forms and instructions for applications for credit certification, as specified pursuant to the Farmworker Housing Assistance Program.

(2) Accept applications and issue a certificate to the taxpayer that includes a certification as to the eligible costs described in subdivision (b) that qualify for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Credit in excess of the amount necessary to make the project feasible shall not be allocated. Credits shall be allocated through a minimum of one competitive funding round per year.

(3) Obtain the taxpayer's taxpayer identification number, and each partner's taxpayer identification number in the case of a partnership, for tax administration purposes.

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the committee, containing the names, taxpayer identification numbers pursuant to paragraph (3), eligible costs, and total amount of credit certified to each taxpayer.

(f) For purposes of this section:

(1) ''Compliance period'' means, with respect to any farmworker housing, the period of 30 consecutive taxable years, beginning with the taxable year in which the credit is allowable.

(2) ''Construct or rehabilitate'' includes reconstruction, but does not include any costs related to acquisition or refinancing of property or structures thereon.

(3) ''Farmworker Housing Assistance Program'' means Chapter 3.7 (commencing with Section 50199.50) of Part 1 of Division 31 of the Health and Safety Code.

(4) ''Qualified farmworker housing'' means housing located within this state which satisfies the requirements of the Farmworker Housing Assistance Program. The housing may be vacant or occupied.

(5) ''Committee'' means the California Tax Credit Allocation Committee as defined in Section 50199.7 of the Health and Safety Code.

(6) ''Qualified accountant'' means an accountant licensed or certified in this state who is neither an employee of the taxpayer nor related to the taxpayer, within the meaning of Section 267 of the Internal Revenue Code.

(g) No deduction or other credit shall be allowed under this part or Part 11 (commencing with Section 23001) to the extent of any eligible costs, as defined in subdivision (b), that are taken into account in computing the credit allowed under this section.

(h) The farmworker housing tax credit shall not be allowed unless the taxpayer:

(1) Constructs or rehabilitates the property subject to the covenants, conditions, and restrictions imposed by this section and pursuant to the Farmworker Housing Assistance Program, which shall include, but not necessarily be limited to, a requirement that the taxpayer obtain, for approval by the committee, a construction cost audit and certification of eligible costs from a qualified accountant.

(2) Subsequent to construction or rehabilitation of the farmworker housing, owns or operates the farmworker housing pursuant to the requirements of this section, or ensures the ownership and operation of the farmworker housing pursuant to the requirements of this section.

(i) The requirements of this section shall be set forth in a written agreement between the committee and the taxpayer. The agreement shall include, but not necessarily be limited to, the requirements set forth in the Farmworker Housing Assistance Program.

(j) In the case where the credit allowed by this section exceeds the ''net tax,'' the excess may be carried over to reduce the ''net tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(k) (1) In the case of any disqualifying event, as defined in paragraph (2), there shall be added to the ''net tax,'' as defined in Section 17039, for the taxable year in which the disqualifying event occurs, the recapture amount computed under paragraph (3) and the interest amount computed under paragraph (4).

(2) For purposes of this subdivision, ''disqualifying event'' shall mean:

(A) The committee determines that the certification provided under subdivision (e) was obtained by fraud or misrepresentation.

(B) The taxpayer fails to comply with the requirements of the Farmworker Housing Assistance Program, or any other requirement imposed under this section.

(3) For purposes of this subdivision, ''recapture amount'' means:

(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the entire amount of any credit previously allowed under this section.

(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), an amount determined by multiplying the entire amount of the credit previously allowed under this section by a fraction, the numerator of which is the number of years remaining in the compliance period and the denominator of which is 30.

(4) For purposes of this subdivision, ''interest amount'' means:

(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the amount of interest computed using the adjusted annual rate established in Section 19521 from the due date of the return for each taxable year in which the credit was claimed to the date of the payment of the additional tax resulting from the application of this subdivision.

(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), zero.

(*l*) The annual amount of credit granted pursuant to this section and Sections 23608.2 and 23608.3 shall not exceed five hundred thousand dollars ($500,000), provided that the aggregate amount of the credit granted pursuant to this section and Sections 23608.2 and 23608.3 for the 1998 calendar year and thereafter may exceed five hundred thousand dollars ($500,000) per calendar year by an amount equal to any unallocated credits under this section and Sections 23608.2 and 23608.3 for the preceding calendar year or years.

SEC. 3. Section 23608.2 of the Revenue and Taxation Code is amended to read:

23608.2. (a) For income years beginning on or after January 1, 1997, there shall be allowed as a credit against the ''tax,'' as defined by Section 23036, an amount, subject to Section 42(h)(1) of the Internal Revenue Code, that is otherwise equal to the lesser of 50 percent of the eligible costs, as determined under subdivision (b), or the amount allocated under paragraph (2) of subdivision (e).

(b) (1) For purposes of this section, the ''eligible costs'' shall be equal to the total finance costs, construction costs, excavation costs, installation costs, and permit costs paid or incurred to construct or rehabilitate farmworker housing. ''Eligible costs'' include, but are not limited to, improvements to ensure compliance with laws governing access for persons with disabilities and costs related to reducing utility expenses. Noneligible costs include land and those costs financed by grants and below-market financing.

(2) For purposes of paragraph (1), construction or rehabilitation of the farmworker housing shall have commenced on or after January 1, 1997.

(3) Notwithstanding any provision of this part, eligible costs shall not include any costs paid or incurred prior to January 1, 1997.

(c) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the taxpayer first obtains a certification from the committee that the amounts described in subdivision (b) qualify for the credit under this section and the total amount of the credit allocated to the taxpayer pursuant to the Farmworker Housing Assistance Program.

(d) The taxpayer shall do all of the following:

(1) Apply to the committee for credit certification.

(2) Retain a copy of the certification.

(3) Make the certification available to the Franchise Tax Board upon request.

(e) The committee shall do all of the following:

(1) Provide forms and instructions for applications for credit certification, as specified pursuant to the Farmworker Housing Assistance Program.

(2) Accept applications and issue a certificate to the taxpayer that includes a certification as to the eligible costs described in subdivision (b) that qualify for the credit and the total amount of the credit to which the taxpayer is entitled for the income year. Credit in excess of the amount necessary to make the project feasible shall not be allocated. Credits shall be allocated through a minimum of one competitive funding round per year.

(3) Obtain the taxpayer's taxpayer identification number, or each shareholder's taxpayer identification number in the case of an S corporation, for tax administration purposes.

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the committee, containing the names, taxpayer identification numbers pursuant to paragraph (3), eligible costs, and total amount of credit certified to each taxpayer.

(f) For purposes of this section:

(1) ''Compliance period'' means, with respect to any farmworker housing, the period of 30 consecutive income years, beginning with the income year in which the credit is allowable.

(2) ''Construct or rehabilitate'' includes reconstruction, but does not include any costs related to acquisition or refinancing of property or structures thereon.

(3) ''Farmworker Housing Assistance Program'' means Chapter 3.7 (commencing with Section 50199.50) of Part 1 of Division 31 of the Health and Safety Code.

(4) ''Qualified farmworker housing'' means housing located within this state which satisfies the requirements of the Farmworker Housing

Assistance Program. The housing may be vacant or occupied, and it need not be licensed pursuant to the Employee Housing Act at the time of the initiation of construction or rehabilitation.

(5) ''Committee'' means the California Tax Credit Allocation Committee as defined in Section 50199.7 of the Health and Safety Code.

(6) ''Qualified accountant'' means an accountant licensed or certified in this state who is neither an employee of the taxpayer, nor related to the taxpayer within the meaning of Section 267 of the Internal Revenue Code.

(g) No deduction or other credit shall be allowed under this part or Part 10 (commencing with Section 17001) to the extent of any eligible costs, as defined in subdivision (b), that are taken into account in computing the credit allowed under this section.

(h) The farmworker housing tax credit shall not be allowed unless the taxpayer:

(1) Constructs or rehabilitates the property subject to the covenants, conditions, and restrictions imposed by this section and pursuant to the Farmworker Housing Assistance Program, which shall include, but not necessarily be limited to, a requirement that the taxpayer obtain, for approval by the committee, a construction cost audit and certification of eligible costs from a qualified accountant.

(2) Subsequent to construction or rehabilitation of the farmworker housing, owns or operates the farmworker housing pursuant to the requirements of this section, or ensures the ownership and operation of the farmworker housing pursuant to the requirements of this section.

(i) The requirements of this section shall be set forth in a written agreement between the committee and the taxpayer. The agreement shall include, but not necessarily be limited to, the requirements set forth in the Farmworker Housing Assistance Program.

(j) In the case where the credit allowed by this section exceeds the ''tax,'' the excess may be carried over to reduce the ''tax'' in the following year, and succeeding years if necessary, until the credit has been exhausted.

(k) (1) In the case of any disqualifying event, as defined in paragraph (2), there shall be added to the ''tax,'' as defined in Section 23036, for the income year in which the disqualifying event occurs, the recapture amount computed under paragraph (3) and the interest amount computed under paragraph (4).

(2) For purposes of this subdivision, ''disqualifying event'' shall mean:

(A) The committee determines that the certification provided under subdivision (e) was obtained by fraud or misrepresentation.

(B) The taxpayer fails to comply with the requirements of the Farmworker Housing Assistance Program, or any other requirement imposed under this section.

(3) For purposes of this subdivision, ''recapture amount'' means:

(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the entire amount of any credit previously allowed under this section.

(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), an amount determined by multiplying the entire amount of the credit previously allowed under this section by a fraction, the numerator of which is the number of years remaining in the compliance period and the denominator of which is 30.

(4) For purposes of this subdivision, ''interest amount'' means:

(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the amount of interest computed using the adjusted annual rate established in Section 19521 from the due date of the return for each income year in which the credit was claimed to the date of payment of the additional tax resulting from the application of this subdivision.

(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), zero.

(*l*) The annual amount of credit granted pursuant to this section and Sections 17053.14 and 23608.3 shall not exceed five hundred thousand dollars ($500,000), provided that the aggregate amount of the credit granted pursuant to this section and Sections 17053.14 and 23608.3 for the calendar year 1998 and thereafter may exceed five hundred thousand dollars ($500,000) per calendar year by an amount equal to any unallocated credits under this section and Sections 17053.14 and 23608.3 for the preceding calendar year or years.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 312

An act to amend Sections 50455, 50517.5, and 50517.6 of, to amend the heading of Chapter 3.2 (commencing with Section 50517.5) of Part 2 of Division 31 of, and to add Sections 1179.6 and 50517.11 to, the Health and Safety Code, relating to farmworkers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 1179.6 is added to the Health and Safety Code, to read:

1179.6. (a) (1) In order to provide improved delivery of services to the families of agricultural workers, the State Department of Health Services shall review and survey the extent to which agricultural workers and their families utilize those public health programs for which they are eligible. In conducting the survey, the department shall ensure the full participation of entities that provide services to agricultural workers, including clinics, community-based agencies, public health departments, and organizations and associations involved with agricultural worker health and well-being. Programs considered in the survey shall include, but shall not be limited to, all of the following:

(A) The Medi-Cal program.

(B) The Healthy Families program.

(C) The Early and Periodic Screening, Diagnostic, and Treatment Program (EPSDT).

(D) The Child Health and Disability Prevention Program (CHDP).

(E) Health clinics.

(F) Public health prevention programs.

(G) Immunization programs.

(H) Community mental health programs.

(I) Programs funded under the California Children and Families Program.

(J) Parenting programs.

(K) Teen pregnancy prevention and case management programs.

(L) Domestic violence and child abuse prevention programs.

(M) Any other relevant programs available in communities of agricultural workers.

(2) The department shall use the results of the survey to prepare an implementation plan that maximizes access and streamlines service delivery, in order to make comprehensive family wellness programs readily available to agricultural workers and their families. In developing the implementation plan, the department shall ensure the full participation of entities contributing to the survey of available services. The implementation plan shall be based on the principles set forth in subdivision (g) of Section 50517.5, including all of the following:

(A) Involvement of agricultural workers and their families in program design and delivery.

(B) Community collaboration on the local level among available public and private agencies.

(C) Coordination with the provision of adequate housing.

(b) (1) The survey shall address the extent to which outreach programs are directed to, and succeed in, reaching agricultural workers and their families, and shall identify any geographical, cultural, linguistic, or other barriers that may prevent full utilization of available services.

(2) The survey shall place significant emphasis on actual experiences of agricultural workers and their families.

(c) The department shall report the results of the survey required by this section to the Legislature on or before March 1, 2001, and shall present the Legislature with the implementation plan required by paragraph (2) of subdivision (a) on or before December 31, 2001.

SEC. 2. Section 50455 of the Health and Safety Code is amended to read:

50455. (a) The department shall develop a statewide farm labor housing assistance plan and related policies, goals, and objectives for inclusion in the California Statewide Housing Plan.

(b) The farm labor housing assistance plan shall include, but not be limited to, an identification of impediments to the production of housing affordable to farm laborers, federal, state, and local sources of financing, private sources of funding, innovative approaches to financing that could be used as a model, the analysis of the need for permanent and migrant housing, and measures that need to be implemented to address the need for farm labor housing.

(c) The department shall establish a task force to assist in the development of the farm labor housing assistance plan. The task force shall include representatives of state housing departments and agencies involved in the planning and production of housing, infrastructure, and services to farm laborers and representatives from local government, agricultural organizations, organizations of farm laborers, and organizations serving farm laborers and low-income residents in rural areas.

(d) The department shall develop or revise the farm labor housing assistance plan on or before July 1, 2002. In the event the department does not update or provide the next revision of the California Statewide Housing Plan pursuant to Section 50452 on or before July 1, 2002, the department shall release the farm labor housing assistance plan separately from the California Statewide Housing Plan.

SEC. 3. The heading of Chapter 3.2 (commencing with Section 50517.5) of Part 2 of Division 31 of the Health and Safety Code is amended to read:

CHAPTER 3.2. THE JOE SERNA, JR. FARMWORKER HOUSING GRANT PROGRAM

SEC. 4. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) (1) The department shall establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families. Under this program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grant funds to the local public entities and nonprofit corporations or may, at the request of the local public entity or nonprofit corporation that sponsors and supervises the rehabilitation program, disburse grant funds to agricultural employees who are participants in a rehabilitation program sponsored and supervised by the local public entity or nonprofit corporation. No part of a grant made pursuant to this section may be used for project organization or planning.

(2) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

(3) It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for year-round occupancy and ownership by agricultural employees, including ownership of the sites upon which the dwellings are located.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering the grant program.

(2) There shall be paid into the fund the following:

(A) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(B) Any moneys that the department receives in repayment or return of grants from the fund, including any interest therefrom.

(C) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents that may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that the increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section.

(4) (A) Require as a condition precedent to a grant of funds that the grantee be record owner in fee of the assisted real property and that the grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

(B) In the event that funds granted pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may these regulations provide for the application of the agreement to a percentage of units in a project that is less than the percentage of total development costs that funds granted pursuant to this section represent.

(C) Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property that is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the

name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. The department shall adopt by regulation criteria for the determination of the lien period. This regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction.

(D) Pursuant to regulations adopted by the department, the department may execute and cause to be recorded in the office of the recorder of the county in which a notice of lien has been recorded, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in the subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that both of the following occur:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant funds.

(B) Upon the sale or conveyance of the real property or any part thereof for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that the transferee agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) ''Agricultural employee'' has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works at a packing shed for a labor contractor or other entity that contracts with an agricultural employer in order to perform services in connection with handling, drying, packing, or storing any agricultural commodity in its raw or natural state, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) ''Grantee'' means the local public entity or nonprofit corporation that is awarded the grant under this section and, at the request thereof, may include an individual homeowner receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and who is a participant in a rehabilitation program sponsored and supervised by a local public entity or nonprofit corporation.

(3) ''Housing'' may include, but need not be limited to, conventionally constructed units and manufactured housing.

(h) The department may offer the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

SEC. 5. Section 50517.6 of the Health and Safety Code is amended to read:

50517.6. (a) The department may set aside the amount of funds authorized by subdivision (d) 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 dwelling unit assisted pursuant to this chapter.

(b) The department may use the set-aside funds made available pursuant to this chapter to repair or maintain any dwelling unit assisted pursuant to this chapter that was acquired to protect the department's security interest in the dwelling unit.

(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 any grant amount secured by the lien and shall be payable to the department upon demand.

(d) On the effective date of the act that adds this section, the department may set aside up to two hundred thousand dollars ($200,000) from the Joe Serna, Jr. Farmworker Housing Grant Fund for the purposes authorized by this section. On July 1 of each subsequent fiscal year, the department may set aside, for the purposes of this section, up to 4 percent of the funds available in the Joe Serna, Jr. Farmworker Housing Grant Fund on that date.

SEC. 6. Section 50517.11 is added to the Health and Safety Code, to read:

50517.11. (a) The Legislature finds and declares all of the following:

(1) California's hard-working agricultural workers have made critical contributions to California's agricultural economy for many generations.

(2) The health, housing, and economic and social conditions of agricultural workers have been long ignored by public policy, such that this lowest-paid segment of our labor force has lived in poverty conditions, with inadequate health care, housing, and other services.

(3) The late Mayor of Sacramento, Joe Serna, Jr., who grew up as a farmworker and provided an inspiration by making invaluable contributions to society, maintained a lifelong interest in improving the conditions of agricultural workers and their families and children.

(4) Housing is a primary determinant of health.

(5) While California has established a Farmworker Housing Grant Program, it has not attempted to integrate its housing programs with broader programs to ensure the health and improve the conditions of agricultural worker families.

(b) It is the intent of the Legislature to enact the ''Joe Serna, Jr. Farmworker Family Wellness Act,'' to provide for all of the following:

(1) Integration, coordination, and expansion of health services to achieve the goal of advancing comprehensive strategies for improving the health status of agricultural workers and their families.

(2) Integration, coordination, and expansion of community-based services, including housing, educational, recreational, and social services, to serve the varied needs of agricultural worker families.

(3) A means for integration and coordination of public, private, and nonprofit services in conjunction with the Joe Serna, Jr. Farmworker Housing Grant Program to maximize the effectiveness of services to agricultural worker families.

(c) (1) There is hereby created the Joe Serna, Jr. Farmworker Family Wellness Program, to provide for the integration of family health and other family services with the housing component of Section 50517.5. The program shall contain elements that provide for all of the following:

(A) The provision of housing and the provision of health and other family services for agricultural workers in a coordinated manner.

(B) Involvement of agricultural workers in decisions about priorities for programs and services that are needed.

(C) The participation of other community partners, including schools, in a collaborative effort to provide these programs and services in conjunction with the construction of new housing or the rehabilitation of existing housing.

(2) Subject to funding in the Budget Act of 2000 for a program to link up farmworker housing grant funds to housing developments that also provide health and other family services, the Department of Housing and Community Development may enter into a memorandum of understanding (MOU) or contract for the implementation of this program with a nonprofit corporation that demonstrates statewide experience, capacity, and capability in designing, financing, and implementing programs for providing housing for agricultural workers and integrating health services with the provision of farmworker housing. The MOU or contract shall provide that the nonprofit corporation shall process and approve applications received from potential grantees, oversee project development and implementation, and oversee the long-term monitoring and compliance required by Section 50517.5 and this section. The MOU or contract shall include the criteria for consultation with the department or department approval of

various components of the program and an expedited process with the intent of providing approvals in a shortened timeframe. The department may prescribe conditions related to the deposit, use, and accounting of funds for operation of the program. The MOU or contract shall further provide that the department funds awarded to any grantee by the nonprofit corporation be used in conjunction with the nonprofit corporation's funds in both the housing construction or rehabilitation component as well as the health and family services component. The nonprofit corporation's funds may be used as all or a portion of the match required by subdivision (c) of Section 50517.5.

(3) The department 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.

(4) A nonprofit corporation selected pursuant to paragraph (2) shall report the information required by this paragraph to the Department of Housing and Community Development and the department shall report to the Legislature the results of the Joe Serna, Jr. Farmworker Family Wellness Program on or before December 31, 2002. The report shall include all of the following:

(A) Details of the MOU.

(B) Number of grants awarded to grantees.

(C) Details about the projects operated using grant funds identifying information related to all of the elements provided in paragraph (1).

(D) Number of new housing units built, rehabilitated, or under construction.

(E) Details about the physical and other benefits received by agricultural workers and their families from participation in the health and family services programs while living in the housing units assisted by this program.

(d) The department shall not enter into a new MOU or contract or commit additional funding to the program after January 1, 2004, except for costs and activities related to long-term compliance and monitoring of projects assisted pursuant to this section.

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 improve the health and well-being of agricultural workers and their families by improving delivery of public health services and making available grant funds for housing at the earliest possible time, it is necessary that this act take effect immediately.

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CHAPTER 313

An act to add Article 5 (commencing with Section 9900) to Chapter 2 of Part 1 of Division 3 of the Unemployment Insurance Code, relating to employment development, and making an appropriation therefor.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Recent studies show that as many as 50 percent or more of youth drop out of high school prior to graduation in many areas of the state.

(b) Youth who face multiple social and economic barriers are most at risk of dropping out of high school and failing to transition successfully into the workforce.

(c) Because of the financial constraints placed on schools in providing the necessary individualized attention, youth with multiple social and economic barriers often fail to succeed in even the best educational systems.

(d) Youth who do not complete their secondary education often lack the skills necessary to qualify for most available job openings. Many youths who do graduate often still lack fundamental work skills and attributes that employers are seeking.

(e) The earning potential of a high school graduate is 23 percent more than a youth who does not complete his or her secondary education.

(f) Youths who lack the fundamental skills to obtain a quality job are more likely to be involved in substance abuse or criminal activities, threatening themselves and everyone around them.

(g) With the booming California economy, employers are facing a critical shortage in the labor market and are forced to compete for qualified entry-level employees.

(h) The Legislature has an interest in providing assistance to those youths who can benefit most from the individualized attention and transitional services needed to help them complete their secondary education and successfully advance into the workplace.

(i) While many of the education programs serving at-risk youth are designed to serve all youth, most are not designed with an accountability system that enables state and local policymakers to quantify the results of the program. Thus, millions of taxpayer dollars are spent every year without a reliable mechanism for determining the return on the taxpayer's dollar.

(j) To ensure that California's most at-risk youth receive the help they need to complete their secondary education and to gain basic

employability skills, and that taxpayers and policymakers can monitor the return on their investment in publicly supported programs, it is in the interest of the state to support a national model program for at-risk youth that has demonstrated a strong performance record in successfully achieving these outcomes.

(k) Jobs for California Graduates (JCG), the pilot project based on Jobs for America's Graduates (JAG), a national model program for at-risk youth, has demonstrated remarkable success. The local program in Merced County has been operating for the last 10 years with success rates of 90 percent graduation and over 80 percent job or college enrollment.

SEC. 2. Article 5 (commencing with Section 9900) is added to Chapter 2 of Part 1 of Division 3 of the Unemployment Insurance Code, to read:

Article 5. Jobs for California Graduates Program

9900. (a) It is the intent of the Legislature in enacting this article to support the expansion of the Jobs for California Graduates pilot project in Merced into a regional system of local programs based on the Jobs for America's Graduates model. The Jobs for California Graduates nonprofit, public-private partnership will create a network of local programs to help California's at-risk youth complete their secondary education and acquire the basic skills necessary to successfully transition into the workforce or enroll in postsecondary education.

(b) The director of the Employment Development Department, from funds appropriated for this purpose to the Jobs for California Graduates Program, may make grants to applicants for the purpose of carrying out programs as authorized by this article. The grants shall be used to support new and existing Jobs for California Graduates Programs in the central valley region in one or more of the following counties: Sacramento, San Joaquin, Stanislaus, Merced, Fresno, Madera, and Kern. The director shall develop criteria for ranking grant applications, and performance standards and auditing procedures for evaluating the effectiveness of the grants. The director may contract with a qualified nonprofit corporation designated by the national organization, Jobs for America's Graduates, to provide technical assistance to Jobs for California Graduates local programs.

(c) The regional system of Jobs for California Graduates local programs shall be designed to accomplish all of the following goals:

(1) To decrease absenteeism rates for at-risk youth.

(2) To improve the performance of at-risk youth in school and in the workplace.

(3) To improve secondary education completion rates.

(4) To improve employability skills of at-risk youth.

(5) To improve employment placement rates for at-risk youth.

(6) To improve enrollment rates of at-risk youth in postsecondary education and training.

9901. (a) In order to encourage a regional system of long-lasting, self-sustaining model local programs, communities served pursuant to this article shall contribute in-kind and financial resources in direct support of the model local program, according to the following schedule:

(1) During its initial year of implementation, a Jobs for California Graduates local program may receive state funds in an amount equal to 100 percent of the costs of implementing each Jobs for California Graduates Program site, but not to exceed sixty thousand dollars ($60,000).

(2) During any year subsequent to the initial year of implementation, a model local program may receive state funds in the amount equal to 75 percent of the costs of implementing the model local program, but not to exceed forty-five thousand dollars ($45,000).

(b) Community partners providing matching resources to the model local programs may include private nonprofit corporations, community-based organizations, workforce investment agencies, school districts, and other public and private sources.

9902. Local affiliates of the Jobs for California Graduates Program shall include all of the following elements:

(a) (1) A trained youth specialist employed year-round providing individual and group instruction to 25 to 45 eligible youth recruited and selected by a school-based advisory committee comprised of faculty, administrators, and counselors.

(2) The youth specialist shall provide individual attention to students to help them overcome barriers preventing them from receiving a high school diploma or securing employment, or both, or pursuing a postsecondary education that will lead to a career.

(3) The youth specialist shall provide informal guidance to students on academic, career, and life decisions and, based on the individual needs of students, connect them to professional counseling services to address more serious barriers, such as mental health problems or drug abuse.

(4) The youth specialist shall be actively involved in intensive, one-on-one employer marketing and job development activities to identify entry-level job opportunities for students upon graduation. Likewise, the youth specialist shall assist graduates in the exploration of postsecondary education opportunities and help them navigate the financial aid process to pursue these opportunities.

(b) Youth shall be taught a minimum of 37 employment competencies designed to prepare them to secure a quality entry-level

job or pursue a postsecondary education, or both, upon completion of their secondary education.

(c) Placement services shall be provided to students during the summer months or partnerships developed with summer youth employment programs to support yearlong learning. Youth specialists shall maintain contact with youth during the summer months.

(d) A student-led organization, associated with a state and national association, shall build on the competency-based curriculum and provide the opportunity for students to develop, practice, and refine their leadership and team membership skills.

(e) It shall serve as a school-based ''one-stop center'' for participating at-risk youth to ensure that they receive appropriate academic and social services from available resources in the school and community.

(f) It shall provide no less than 12 months of followup and support on the job and in postsecondary education after leaving the school.

(g) It shall provide computerized tracking of youth served, services delivered and performance outcomes, such as graduation rate, positive outcome rates, aggregate employment rate, full-time jobs rate, full-time placement rate, further education rate, wages, and return to school rate, at local and state levels.

(h) It shall provide continuous improvement of results through the ongoing professional development of managers, supervisors, and specialists.

9903. (a) Entities eligible to conduct a Jobs for California Graduates local program shall include, but need not be limited to, local education agencies, community colleges, and nonprofit organizations with an interest in serving at-risk youth.

(b) To maintain eligibility after the initial year of implementation, participating entities shall conduct the Jobs for California Graduates Program in accordance with Jobs for America's Graduates performance standards, receiving no less than a ''Meets Standards'' rating on an accreditation review.

9904. To be eligible to receive services through a Jobs for California Graduates local program under this article, a youth shall meet at least two of the following criteria:

(a) One or more years behind modal grade for one's age group, with particular emphasis on those two or more years behind modal grade.

(b) Below average academic grade point average relative to students in his or her class.

(c) Above average number of absences during the past school year in comparison to other students in the school.

(d) Placed on probation, suspended, or expelled from school one or more times during the past two years.

(e) Pregnant or parenting teen.

(f) Physically or mentally challenged.

(g) Involved with substance abuse or criminal activities.

(h) Member of an economically disadvantaged family.

(i) Lives with only one or neither of his or her natural parents.

(j) Receives little or no academic or social support from home or family.

(k) Mother has not graduated from high school.

(*l*) Closest friends have limited educational expectations. For example, they do not expect to graduate from high school or have already dropped out of high school.

9905. (a) For purposes of establishing and expanding these programs, the department shall, to the extent feasible, make local grants available throughout the region.

(b) Notwithstanding subdivision (a), it is the intent of the Legislature that Jobs for California Graduates local programs be conducted in a broad range of settings, including urban, suburban, and rural districts, which are representative of all California youth during the initial year of the regional program, in order to test the effectiveness of the model local programs throughout the state.

9907. (a) The department shall submit an annual report to the Legislature on the performance outcomes of the Jobs for California Graduates local programs on an annual basis.

(b) The department shall report the following outcomes at the end of the 12-month followup period:

(1) Secondary education completion rate as compared to the Jobs for America's Graduates standard of 90 percent for senior participants.

(2) Positive outcomes rate, such as youth employed, enrolled in a postsecondary institution, or serving in the military, or all of these, as compared to the Jobs for America's Graduates standard of 80 percent positive outcomes for graduates.

(3) Full-time placement rate, such as youth engaged in full-time employment, full-time military, or combining postsecondary education with employment.

(4) All other participant outcomes as required by the Governor under Section 122(h) of the federal Workforce Investment Act of 1998.

9908. State funds made available pursuant to this article shall be used to carry out both of the following:

(a) The Jobs for California Graduates local program elements specified in Section 9902.

(b) Regional management and technical assistance activities, including, but not limited to, all of the following:

(1) Operation of an office, including the hiring of staff, that shall be responsible for managing and monitoring model local program compliance.

(2) Conducting research and evaluation of all Jobs for California Graduates local programs, retaining a third-party provider as appropriate.

(3) Making available regional training and development opportunities for consistent, effective implementation of the model local programs.

(4) Conducting educational and outreach activities to engage private and public sector employers, secondary and postsecondary educational institutions, the military, state and local elected officials, community and social service organizations, and other interested parties.

(5) Conducting regional activities for students, including, at a minimum, a leadership development conference and a career development conference.

(6) Providing for the continuous improvement of model local program performance outcomes.

(7) Developing and maintaining state and local partnerships with private and public employers, secondary and postsecondary educational institutions, and community and social services organizations.

(8) Providing other support and oversight to promote the continuous improvement of Jobs for California Graduates local programs.

(9) Directly operating local programs as appropriate.

SEC. 3. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Employment Development Department for the purposes of the regional Jobs for California Graduates Program established pursuant to Article 5 (commencing with Section 9900) of Chapter 2 of Part 1 of Division 3 of the Unemployment Insurance Code, as added by Section 2 of this act.

(b) It is the intent of the Legislature that moneys necessary for funding the regional youth development program in future fiscal years be appropriated in the annual Budget Act.

CHAPTER 314

An act to add Section 3058.65 to the Penal Code, relating to parole.

[Approved by Governor September 2, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. This act shall be known as, and may be cited as, ''Dustin's Law.''

SEC. 2. Section 3058.65 is added to the Penal Code, to read:

3058.65. (a) Whenever any person confined in the state prison is serving a term for the conviction of child abuse, pursuant to Section 273a, 273ab, 273d, or any sex offense specified as being perpetrated against a minor, or as ordered by a court, the Board of Prison Terms, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections, with respect to inmates sentenced pursuant to Section 1170, shall notify the immediate family of the parolee who requests that notification and who provides the department with a current address that the person is scheduled to be released on parole, or rereleased following a period of confinement pursuant to a parole revocation without a new commitment, as specified in subdivision (b)

(2) For the purposes of this paragraph, ''immediate family of the parolee'' means the parents, siblings, and spouse of the parolee.

(b) (1) The notification shall be made by mail at least 45 days prior to the scheduled release date, except as provided in paragraph (2). The notification shall include the name of the person who is scheduled to be released, the terms of that person's parole, whether or not that person is required to register with local law enforcement, and the community in which that person will reside. The notification shall specify the office within the Department of Corrections that has the authority to make the final determination and adjustments regarding parole location decisions.

(2) When notification cannot be provided within the 45 days due to the unanticipated release date change of an inmate as a result of an order from the court, an action by the Board of Prison Terms, the granting of an administrative appeal, or a finding of not guilty or dismissal of a disciplinary action, that affects the sentence of the inmate, or due to a modification of the department's decision regarding the community into which the person is scheduled to be released pursuant to paragraph (3), the department shall provide notification to the parties specified in subdivision (a) as soon as practicable, but in no case less than 24 hours after the final decision is made regarding the location where the parolee will be released.

(c) In no case shall the notice required by this section be later than the day the person is released on parole.

CHAPTER 315

An act to amend Sections 7270, 7271, 7272, and 7273 of, and to add Sections 7270.5 and 7272.5 to, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 2, 2000. Filed with
Secretary of State September 7, 2000.]

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

SECTION 1. Section 7270 of the Food and Agricultural Code is amended to read:

7270. The Legislature finds and declares all of the following:

(a) The destructive impact of invasive and often poisonous noxious weeds is profound, affecting California's cropland, rangeland, forests, parks, and wildlands.

(b) These pests cause enormous losses of private, state, and federal resources through decreased land productivity, degradation of wildlife habitat, and outright destruction of crops, livestock, wetlands, waterways, watersheds, and recreational areas.

(c) The estimated lost crop productivity caused by noxious weeds is seven billion four hundred million dollars ($7,400,000,000) nationwide, a large proportion of which is attributable to California. Nationally, the direct and indirect costs of controlling noxious weeds may be as high as five billion four hundred million dollars ($5,400,000,000) annually.

SEC. 2. Section 7270.5 is added to the Food and Agricultural Code, to read:

7270.5. For the purposes of this article, ''integrated weed management plan'' means an ecosystem-based control strategy that focuses on long-term prevention of weeds through a combination of techniques, such as biological controls, judicious use of herbicides, modified land management, and cultural practices, and where control practices are selected and applied in a manner that minimizes the risks to human health, nontargeted organisms, and the environment.

SEC. 3. Section 7271 of the Food and Agricultural Code is amended to read:

7271. (a) The Legislature designates the Department of Food and Agriculture as the lead department in noxious weed management and the department is responsible for the implementation of this article in cooperation with the Secretary for Resources.

(b) There is hereby created in the Department of Food and Agriculture Fund the Noxious Weed Management Account.

(c) Funds appropriated for expenditure by the secretary for purposes of this article may be spent without regard to fiscal year and shall be allocated as follows:

(1) Eighty-five percent of moneys in the account shall be made available to eligible weed management areas or county agricultural commissioners for the control and abatement of noxious weeds according to an approved integrated weed management plan.

(2) Ten percent shall be made available toward research on the biology, ecology, or management of noxious and invasive weeds.

These research moneys shall be made available to qualified researchers through a grant program administered by the department. Proposals shall be evaluated in consultation with the Range Management Advisory Committee, with emphasis placed on funding of needs-based, applied and practical research.

(3) Five percent shall be made available to the department, and shall only be used for the following purposes:

(A) Carrying out the provisions of this article.

(B) Developing of noxious weed control strategies.

(C) Seeking new, effective biological control agents for the long-term control of noxious weeds.

(D) Conducting private and public workshops as needed to discuss and plan weed management strategies with all interested and affected local, state, and federal agencies, private landowners, educational institutions, interest groups, and county agricultural commissioners.

(E) Appointing a noxious weed coordinator and weed mapping specialist to assist in weed inventory, mapping, and control strategies.

SEC. 4. Section 7272 of the Food and Agricultural Code is amended to read:

7272. (a) To be eligible to receive funding from the Noxious Weed Management Account pursuant to this article, a weed management area, as defined in subdivision (b), shall be formed in a county or other geographic area.

(b) A ''weed management area'' is a local organization that brings together all interested landowners, land managers (private, city, county, state, and federal), special districts, and the public in a county or other geographical area for the purpose of coordinating and combining their action and expertise to deal with their common weed control problems. The organization shall function under the authority of a mutually developed memorandum of understanding and subject to statutory and regulatory requirements. A weed management area may be voluntarily governed by a chairperson or a steering committee.

(c) Not more than 10 percent of the noxious weed management funds distributed to a weed management area subject to this section may be used by that local organization for meeting, travel, administration, and coordination costs.

(d) Each weed management area within the state shall create a cost-share integrated management plan for the management of noxious weeds within that area. The plan shall be submitted to the department for review, approval, and funding.

(e) The secretary and weed management areas shall consider the use of the California Conservation Corp and local conservation corps to

assist in implementing integrated weed management plans pursuant to this article.

SEC. 5. Section 7272.5 is added to the Food and Agricultural Code, to read:

7272.5. (a) To be eligible to receive funding from the Noxious Weed Management Account pursuant to this article, a county agricultural commissioner shall submit a cost-share integrated weed management plan to implement an aggressive control program for noxious weeds. The goals of the program shall include, but not be limited to, all of the following:

(1) Increase the profitability and value of cropland and rangeland.

(2) Decrease the costs of roadside, park, and waterway maintenance.

(3) Reduce the fire hazard and fire control costs in the state.

(4) Protect the biodiversity of native ecosystems.

(5) Maintain the recreational and aesthetic value of open space, recreational, and public areas.

(b) Funds dispersed pursuant to this section shall be allocated on the basis of the total number of infested acres in each county and the degree of infestation that exists in the counties, and shall be only used for the following purposes upon submission of a plan approved by county boards of supervisors and the department.

(1) Operation of programs by the agricultural commissioner for control of noxious weeds along county roads and other local government owned property.

(2) Matching funds for control of noxious weeds on city owned streets, parks, rights-of-way, and other public areas.

(3) Disseminating biological control agents by the county agricultural commissioner for the long-term control of yellow starthistle or other noxious weeds.

(4) Abatement of noxious weed infestations on land vital to the success of the program.

(5) Not more than 10 percent of the noxious weed management funds distributed to a local agriculture commissioner subject to this section may be used by that commissioner for meeting, travel, administration, and coordination costs.

SEC. 6. Section 7273 of the Food and Agricultural Code is amended to read:

7273. (a) The department shall designate and provide staff support to an oversight committee to monitor this article and shall consider input from weed management areas, county agricultural commissioners, and the Range Management Advisory Committee.

(b) The membership of the oversight committee shall include an equitable number of representatives from each of the following interests:

(1) Livestock production.

(2) Agricultural crop protection.
(3) Forest products industry.
(4) California Exotic Pest Plant Council.
(5) Research institutions.
(6) Wildlife conservation groups.
(7) Environmental groups.
(8) Resource conservation districts.
(9) The general public.
(10) Local government.
(11) The Department of Fish and Game.

SEC. 7. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund, and shall be deposited in the Noxious Weed Management Account and shall be available for expenditure without regard to fiscal year for purposes of expenditure pursuant to Article 1.7 (commencing with Section 7270) of Chapter 1 of Part 4 of Division 4 of the Food and Agricultural Code.

CHAPTER 316

An act to add Section 3505.4 to the Government Code, relating to public employer-employee relations.

[Approved by Governor September 4, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 3505.4 is added to the Government Code, to read:

3505.4. If after meeting and conferring in good faith, an impasse has been reached between the public agency and the recognized employee organization, and impasse procedures, where applicable, have been exhausted, a public agency that is not required to proceed to interest arbitration may implement its last, best, and final offer, but shall not implement a memorandum of understanding. The unilateral implementation of a public agency's last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption by the public agency of its annual budget, or as otherwise required by law.

CHAPTER 317

An act to amend Sections 31625.3, 31720.6, 31722, and 31874.3 of the Government Code, relating to county employees' retirement.

[Approved by Governor September 4, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 31625.3 of the Government Code is amended to read:

31625.3. Notwithstanding any other provision of this chapter, contributions shall not be deducted from the salary of any member who was a member before or after March 7, 1973, of the retirement association, another county retirement system established under this chapter, or the Public Employees' Retirement System, and has total reciprocal service credit of not less than 30 years in the retirement association, or in the retirement association and another county retirement system established under this chapter, or the Public Employees' Retirement System, or a combination thereof.

This section shall not apply in any county unless and until it is adopted by a majority vote of the board of supervisors.

SEC. 2. Section 31720.6 of the Government Code is amended to read:

31720.6. (a) If a safety member, a firefighter, or a member in active law enforcement who has completed five years or more of service under a pension system established pursuant to Chapter 4 (commencing with Section 31900) or under a pension system established pursuant to Chapter 5 (commencing with Section 32200) or both or under this retirement system or under the Public Employees' Retirement System or under a retirement system established under this chapter in another county, and develops cancer, the cancer so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of employment. The cancer so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

(b) Notwithstanding the existence of nonindustrial predisposing or contributing factors, any safety member, firefighter member, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of cancer shall receive a service-connected disability retirement if the member demonstrates that he or she was exposed to a known carcinogen as a result of performance of job duties.

''Known carcinogen'' for purposes of this section means those carcinogenic agents recognized by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations.

(c) The presumption is disputable and may be controverted by evidence, that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer, provided that the primary site of the cancer has been established. Unless so controverted, the 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.

(d) ''Firefighter,'' for purposes of this section, includes a member engaged in active fire suppression who is not classified as a safety member.

(e) ''Member in active law enforcement,'' for purposes of this section, includes a member engaged in active law enforcement who is not classified as a safety member.

SEC. 3. Section 31722 of the Government Code is amended to read:

31722. The application shall be made while the member is in service, within four months after his or her discontinuance of service, within four months after the expiration of any period during which a presumption is extended beyond his or her discontinuance of service, or while, from the date of discontinuance of service to the time of the application, he or she is continuously physically or mentally incapacitated to perform his or her duties.

SEC. 4. Section 31874.3 of the Government Code is amended to read:

31874.3. (a) (1) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds the maximum benefit increase provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, the board of retirement may provide that all or part of the excess percentage increase shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3. The board shall determine the amount of the excess to be applied, which amount shall not exceed an amount that can be paid from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(2) The supplemental increases in excess of the increases applied to the retirement allowances, optional death allowances, or annual death allowances pursuant to Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances, or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(b) (1) The board of retirement may, instead of taking action pursuant to subdivision (a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, that only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 shall equal or exceed 20 percent as of January 1 of the year in which the board of retirement adopts an increase under this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(c) (1) The board of retirement may, instead of taking action pursuant to subdivision (a) or (b), provide supplemental cost-of-living increases, on a prefunded basis and effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 equal or exceed 20 percent as of January 1 of the year in which the board of retirement takes action pursuant to this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall become a part of the retirement allowances, optional death allowances, or annual death allowances and shall serve to reduce the accumulations established by

Section 31870, 31870.1, 31870.2, or 31870.3, as applicable, by the same percentage as the payment that is made pursuant to this section.

(3) Before the board of retirement provides benefits pursuant to this subdivision, the costs of the benefits shall be determined by a qualified actuary and the board of retirement shall, with the advice of the actuary, provide for the full funding of the benefits utilizing funds in the reserve against deficiencies established pursuant to Section 31592.2, using surplus earnings that exceed 1 percent of the total assets of the retirement system.

(4) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(d) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefit Reserve established pursuant to Section 31618.

CHAPTER 318

An act to amend Section 138.6 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 4, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 138.6 of the Labor Code is amended to read:

138.6. (a) The administrative director, in consultation with the Insurance Commissioner and the Workers' Compensation Insurance Rating Bureau, shall develop a cost-efficient workers' compensation information system, which shall be administered by the division. The administrative director shall adopt regulations specifying the data elements to be collected by electronic data interchange.

(b) The information system shall do the following:

(1) Assist the department to manage the workers' compensation system in an effective and efficient manner.

(2) Facilitate the evaluation of the efficiency and effectiveness of the benefit delivery system.

(3) Assist in measuring how adequately the system indemnifies injured workers and their dependents.

(4) Provide statistical data for research into specific aspects of the workers' compensation program.

(c) The data collected electronically shall be compatible with the Electronic Data Interchange System of the International Association of Industrial Accident Boards and Commissions. The administrative director may adopt regulations authorizing the use of other nationally recognized data transmission formats in addition to those set forth in the Electronic Data Interchange System for the transmission of data required pursuant to this section. The administrative director shall accept data transmissions in any authorized format. If the administrative director determines that any authorized data transmission format is not in general use by claims administrators, conflicts with the requirements of state or federal law, or is obsolete, the administrative director may adopt regulations eliminating that data transmission format from those authorized pursuant to this subdivision.

CHAPTER 319

An act to amend Section 84602 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 4, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 84602 of the Government Code is amended to read:

84602. To implement the Legislature's intent, the Secretary of State, in consultation with the commission, notwithstanding any other provision of this title or any other provision of the Government Code, shall do all of the following:

(a) Develop online and electronic filing processes for use by persons and entities specified in Sections 84604 and 84605 required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100) and Chapter 6 (commencing with Section 86100). As part of that process, the Secretary of State shall define a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in subdivision (a) of Section 84604 and Section 84605 and that conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings prior to development of the record format or formats as a means

to ensure that affected entities have an opportunity to provide input into the development process. The format or formats shall be made public no later than July 1, 1999, to ensure sufficient time to comply with the requirements of this chapter.

(b) Accept test files, from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to subdivision (a) and is compatible with the Secretary of State's system for receiving the data. A list of software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(c) Develop a system that provides for the online or electronic transfer of the data specified in this section utilizing telecommunications technology that assures the integrity of the data transmitted and that creates safeguards against efforts to tamper with or subvert the data.

(d) Make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the Internet within 24 hours of receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

(e) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(f) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(g) Provide assistance to those seeking public access to the information.

(h) Consult with the Department of Information Technology and implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(i) Provide the commission with necessary information to enable it to assist agencies, public officials, and others, with the compliance and with administration of this title.

(j) Report to the Legislature on the implementation and development of the online and electronic filing and disclosure requirements of this chapter. The report shall include an examination of system security, private security issues, software availability, compliance costs to filers, and other issues relating to this chapter, recommending appropriate

changes if necessary. In preparing the report, the commission may present to the Secretary of State and the Legislature its comments regarding this chapter as it relates to the duties of the commission and suggest appropriate changes if necessary. There shall be one report due before the system is operational as set forth in Section 84603, and one due no later than June 1, 2001.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 320

An act to repeal and add Chapter 21.4 (commencing with Section 7515) of Division 7 of Title 1 of the Government Code, relating to public retirement fund investments.

[Approved by Governor September 4, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. This act shall be known and may be cited as the Joint Retirement System Investment Information Sharing Act of 2000.

SEC. 2. Chapter 21.4 (commencing with Section 7515) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 3. Chapter 21.4 (commencing with Section 7515) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 21.4. JOINT RETIREMENT SYSTEM INVESTMENT INFORMATION SHARING

7515. It is the intent of this chapter to authorize and encourage the Public Employees' Retirement System and the State Teachers' Retirement System to regularly cooperate and share information that may assist both systems in developing and implementing appropriate investment strategies, with the advice of investment experts selected by the systems who are willing to share their knowledge and expertise.

7516. Notwithstanding any other provision of law, confidential information or documents relating to investments in the possession of the Public Employees' Retirement System or the State Teachers' Retirement System shall not lose their confidential status due to the fact that the information or documents are shared with the other system or with investment advisors selected by the systems to advise on asset

allocation, active verses passive management, or other investment issues of mutual interest and concern. Nothing in this chapter shall be construed to authorize the release or sharing of documents or information in violation of federal law or the terms of a contract.

CHAPTER 321

An act to amend Sections 700, 1631, 1635, 1639, 1642, 1649.5, 1676, 1703, 1749, 1749.6, 1750, 1750.5, and 1751 of, and to add Sections 1625.5, 1631.5, 1749.31, and 1751.8 to, and to add Article 16.7 (commencing with Section 1758.9) to Chapter 5 of Part 2 of Division 1 of, the Insurance Code, relating to insurance.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 700 of the Insurance Code is amended to read:

700. (a) A person shall not transact any class of insurance business in this state without first being admitted for that class. Admission is secured by procuring a certificate of authority from the commissioner. The certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.

(b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars ($100,000), or by both that fine and imprisonment, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

(c) After the issuance of a certificate of authority, the holder shall continue to comply with the requirements as to its business set forth in this code and in the other laws of this state, including, but not limited to, Chapter 5 (commencing with Section 1631), with regard to employees or contractors who solicit, negotiate, or effect insurance.

(d) Where a hearing is held under this section 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 commissioner shall have all the powers granted therein.

(e) The commissioner shall either issue or deny an application for a certificate of authority within 180 calendar days after the date of the application.

(f) The commissioner and his or her authorized representative shall be prohibited from seeking a waiver to extend the 180 calendar day period specified in subdivision (e), nor shall the applicant be permitted to waive that period.

SEC. 2. Section 1625.5 is added to the Insurance Code to read:

1625.5. (a) A personal lines licensee is a person authorized to transact automobile insurance, as defined in Section 660, residential property insurance, as defined in Section 10087, including earthquake and flood insurance, personal watercraft insurance, and umbrella or excess liability insurance providing coverage when written over one or more underlying automobile or residential property insurance policies, and a personal lines broker-agent license is a license to so act.

(b) A license under this section shall be applied for and renewed, following successful completion of a qualifying examination on this code, ethics, and products sold under the license, in the same manner as is provided in this chapter for a license to act as a fire and casualty broker-agent, except as provided in subdivision (c) or where provided otherwise.

(c) Notwithstanding any other provision of law, for a personal lines license:

(1) ''License term'' for a personal lines license means all of that two-year period beginning on the first day of January and ending the last day of December in the second subsequent year.

(2) ''License year'' for a personal lines license means either the first or second calendar year of a license term.

SEC. 3. Section 1631 of the Insurance Code is amended to read:

1631. Unless exempt by the provisions of this article, a person shall not solicit, negotiate, or effect contracts of insurance, or act in any of the capacities defined in Article 1 (commencing with Section 1621) unless the person holds a valid license from the commissioner authorizing the person to act in that capacity. The issuance of a certificate of authority to an insurer does not exempt an insurer from complying with this article.

SEC. 3.5. Section 1631.5 is added to the Insurance Code, to read:

1631.5. Nothing in this article shall be deemed to affect the current operations of the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2) or the Access for Infants and Mothers Program (Part 6.3 (commencing with Section 12695) of Division 2).

SEC. 4. Section 1635 of the Insurance Code is amended to read:

1635. No license is required under the provisions of this chapter for a person to act in the following capacities or to engage in the following

activities, providing no commission is paid or allowed, directly or indirectly, by the insurer, creditor, retailer, or other person for acting in those capacities or engaging in those activities:

(a) The business of examining, certifying or abstracting titles to real property.

(b) The solicitation for membership in a fraternal benefit society and other activities to the extent and as described in Sections 11013 and 11102 of this code.

(c) As a salaried representative of a reciprocal or interinsurance exchange or of its attorney in fact.

(d) Employment which does not include the solicitation, negotiation, or effecting of contracts of insurance and the signing of policies or other evidences of insurance.

(e) As an officer of an insurer or a salaried traveling employee of the type commonly known as a special agent or as an agency supervisor, while performing duties and exercising functions that are commonly performed by a special agent or agency supervisor, if the person engaging in the activity does not do either of the following:

(1) Effect insurance.

(2) Solicit or negotiate insurance except as a part of and in connection with the business of a fire and casualty broker-agent or life agent licensed under this chapter.

(f) As an officer or salaried representative of a life insurer if his or her activities are limited to direct technical advice and assistance to a properly licensed person and his or her activities do not include effecting, soliciting, or negotiating insurance except as a part of and in connection with the business of a fire and casualty broker-agent or life agent licensed under this chapter.

(g) Employment by an insurer at its home or branch office which does not include the solicitation, negotiation, or effecting of contracts of insurance, and which may as part thereof include the signing of policies or other evidences of insurance.

(h) The completion or delivery of a declaration or certificate of coverage under a running inland marine insurance contract evidencing coverage thereunder and including only those negotiations as are necessary to the completion or delivery if the person performing those acts or his or her employer has an insurable interest in the risk covered by the certificate or declaration.

(i) As an employee of a licensed fire and casualty broker-agent, whose employment is one or more of the following:

(1) That of a regularly salaried administrative or clerical employee whose activities do not include the solicitation, negotiation, or effecting of contracts of insurance from the insuring public.

(2) That of a salesperson who devotes substantially all of his or her activities to selling merchandise and whose solicitation of insurance is limited only to the quoting of a premium for insurance to be included in the purchase price covering the interest retained in the merchandise by the seller.

(j) The solicitation, negotiation or effectuation of home protection contracts by a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code in connection with his or her licensed function authorized by Section 10131 or 10131.6 of the Business and Professions Code. Neither the receipt of a payment permitted by Section 12760 nor the receipt of a benefit permitted by Section 12765 shall disqualify the recipient from the licensing exemption provided by this chapter.

(k) Employees of an insurer whose duties are the inspection, processing, adjusting, investigation, or settling of claims, conducting safety inspections, or accepting or rejecting business from licensed insurance agents or brokers.

(*l*) Officers, directors, or employees of an insurer or producer whose executive, administrative, managerial, or clerical activities are only indirectly related to solicitation, negotiation, or effecting the sale of insurance, provided those persons do not have direct contact with consumers in a sales or service capacity except as otherwise provided by this section.

(m) Employees whose activities are limited to making clerical changes in existing policies or providing indirect marketing and servicing support for the purpose of determining general interest in insurance products.

SEC. 4.5. Section 1639 of the Insurance Code is amended to read:

1639. The following types of licenses under this chapter may be issued to nonresidents:

(a) A fire and casualty broker-agent if the nonresident is duly licensed to transact more than one class of insurance, other than life insurance, disability insurance or life and disability insurance, under the laws of the state or province of Canada wherein he or she resides, provided the state or province does not prohibit a resident of this state from acting as an insurance agent or broker.

(b) A personal lines broker-agent if the nonresident is duly licensed to transact those lines of insurance described in Section 1625.5, under the laws of the state or province of Canada wherein he or she resides, provided the state or province does not prohibit a resident of this state from acting as an insurance agent or broker.

(c) A life agent if the nonresident is licensed in the state of his or her residence to transact life insurance and disability insurance.

The class or classes of insurance which a person is licensed to transact in the state or province of his or her residence shall be determined according to the definitions of classes of insurance in Sections 101 to 120, inclusive, and in Section 1625.5 of this code. A certificate under official seal and original signature from the insurance regulatory authority of the nonresident's home state or province may be accepted as evidence of the applicant's license status and the capacity or capacities in which he or she is licensed.

(d) Nothing in this section shall require a nonresident fire and casualty, personal lines, or life licensee, who has completed a continuing education course in his or her resident jurisdiction, to comply with California's continuing education requirements. However, if the resident jurisdiction has no continuing education requirements, the licensee shall comply with California's continuing education requirements to be eligible for a nonresident license.

SEC. 4.7. Section 1642 of the Insurance Code is amended to read:

1642. An insurer or reciprocal or interinsurance exchange is not eligible for any license under this chapter; but a corporation rendering sales services in connection with a separate account may be licensed irrespective of the extent of ownership of the corporation by an insurer. Nothing herein shall be interpreted to prohibit an insurer or reciprocal or interinsurance exchange from licensing its employees who solicit, negotiate, or effect contracts of insurance pursuant to this article.

SEC. 4.8. Section 1649.5 of the Insurance Code is amended to read:

1649.5. Notwithstanding Section 1642, an insurer may own or control, whether directly or indirectly, a separate entity licensed under this chapter as a fire and casualty broker-agent or life agent as defined in Section 1621, 1622, or 1623, respectively. Insurance transacted by a fire and casualty broker-agent with and on behalf of the owning or controlling insurer shall be in its capacity as an insurance agent.

SEC. 5. Section 1676 of the Insurance Code is amended to read:

1676. (a) Except as set forth in Sections 1675 and 1679, the commissioner shall not issue a permanent license pursuant to this chapter to an applicant therefor unless the applicant has within the 12-month period next preceding the date of issue of the license taken and passed the qualifying examination for that license. This section shall not apply to a person licensed as a fire and casualty broker-agent who applies for a license as a personal lines broker-agent.

(b) An applicant for a personal lines license pursuant to Section 1625.5 who has been continually employed by an admitted insurer or licensed fire or casualty broker-agent in a full-time position for at least three years prior to January 1, 2001, shall be exempted, at the discretion of the commissioner, from having to take and pass an examination to obtain a personal lines license. An exempted applicant shall be required

to comply with all other provisions of this article pertaining to the issuance and maintenance of a personal lines license.

(c) An application for a personal lines license shall be submitted to the commissioner as provided for in Article 4 (commencing with Section 1652).

(d) The commissioner may deny any application for a personal lines license as provided in Article 6 (commencing with Section 1666).

(e) In addition to the application, any applicant seeking exemption from the examination provisions of this chapter shall also submit, on a form prescribed by the commissioner, or if a form is not prescribed, in letter or resumé form, information that will permit the commissioner to determine whether the previous experience of the applicant warrants an exemption from having to take an examination to obtain a license.

(f) The commissioner shall require an applicant to take an examination to obtain a license if the commissioner determines that the applicant has failed to demonstrate that previous experience warrants an exemption from examination. In the absence of making that determination, the request for exemption from examination shall be granted.

(g) This section shall not be applicable to any applicant for a nonresident license pursuant to subdivision (b) of Section 1639.

(h) This section shall not be applicable to any applicant who has been refused a license or has had a license suspended or revoked by the commissioner.

(i) An applicant for a personal lines license pursuant to Section 1625.5 who seeks an exemption from an examination to obtain a license shall submit a request to that effect to the commissioner. An applicant who does not submit an application on or before December 31, 2001, shall be required to take an examination to obtain a license.

SEC. 5.1. Section 1703 of the Insurance Code is amended to read:

1703. Every applicant for an original license to act as a fire and casualty broker-agent, personal lines broker-agent, life agent, life analyst, surplus line broker, special lines surplus line broker, motor club agent, or bail agent or bail solicitor or bail permittee shall, as part of the application, endorse an authorization for disclosure to the commissioner of financial records of any fiduciary funds as defined in Section 1733, pursuant to Section 7473 of the Government Code. The authorization shall continue in force and effect for so long as the licensee continues to be licensed by the department.

SEC. 5.2. Section 1749 of the Insurance Code is amended to read:

1749. The department shall require all new applicants for license as a fire and casualty broker-agent, personal lines broker-agent, or as a life agent to meet prelicensing education standards as follows:

(a) Require a minimum of 40 hours of prelicensing classroom study as a prerequisite to qualification for a fire and casualty broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(b) Require a minimum of 20 hours of prelicensing classroom study as a prerequisite for qualification for a personal lines broker-agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department.

(c) Require a minimum of 40 hours of prelicensing classroom study as a prerequisite for qualification for a life agent license. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval. Any additions to the minimum requirements provided by this section shall be approved by the curriculum board pursuant to Section 1749.1 and certified by the department. This curriculum shall also include instruction in workers' compensation and general principles of employers' liability.

(d) In addition to the 40 hours prelicensing education required to qualify for a license as a fire and casualty broker-agent or life agent, or the 20 hours prelicensing education required to qualify for a license as a personal lines broker-agent, the department shall require 12 hours of study on ethics and this code. Where an applicant seeks a license for both the fire and casualty broker-agent license and the life license, the applicant shall only be required to complete one 12-hour course on ethics and this code. The curriculum for satisfying this requirement shall be approved by the curriculum board and submitted to the commissioner for final approval.

(e) An applicant for a life agent license, a fire and casualty broker-agent license, or a personal lines broker-agent license who is currently licensed as such in another state and who has completed 40 hours of prelicensing education as a requirement for licensing in that state shall be required to complete only the course of study on ethics and the Insurance Code, as required by Section 1749. Additionally, any applicant for such a license holding one or more of the designations specified in subdivisions (a) to (e), inclusive, of Section 1749.4 shall be exempted from any requirement for courses in general insurance that would otherwise be a condition of issuance of the license.

SEC. 5.3. Section 1749.31 is added to the Insurance Code, to read:

1749.31. An individual licensed as a personal lines broker-agent shall complete required continuing education courses, programs of instruction, or seminars approved by the commissioner. The minimum number of hours required is 10 hours during each of the calendar years in a license term prior to the renewal of the license.

SEC. 5.5. Section 1749.6 of the Insurance Code is amended to read:

1749.6. Any person failing to meet the requirements imposed by Section 1749.3 or 1749.31, and who has not been granted an extension of time within which to comply by the commissioner shall have his or her license automatically terminated until the time that the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements of this article and all other laws applicable thereto. Where a person cannot perform the requirements of this article due to a disability or inactivity due to special circumstances, the commissioner shall provide a procedure for the person to place his or her license on inactive status until the time that the person demonstrates to the satisfaction of the commissioner that he or she has complied with or made up all of the requirements of this article for the period of disability or inactivity.

SEC. 5.6. Section 1750 of the Insurance Code is amended to read:

1750. The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of that period as one year for that purpose, as follows:

(a) Fire and casualty broker-agent, fifty-six dollars ($56).

(b) Personal lines broker-agent, resident, fifty-six dollars ($56).

(c) Life agent, resident, fifty-six dollars ($56).

(d) Life agent, nonresident, fifty-six dollars ($56).

SEC. 5.7. Section 1750.5 of the Insurance Code is amended to read:

1750.5. The fee for filing application for a nonresident fire and casualty broker-agent or nonresident personal lines broker-agent license shall be that established in Section 1750 for a resident fire and casualty broker-agent or resident personal lines broker-agent, except that if the applicant's state, commonwealth or Canadian province of residence has fees for any nonresident insurance license greater than for a like resident license the fee for filing an application for a nonresident fire and casualty broker-agent license shall not be less than the amount a California resident would be required to pay to obtain a like license for a like term in the applicant's state, commonwealth or Canadian province of residence.

Whenever another state, commonwealth, or Canadian province by statute imposes any restrictions or limitations on a California resident, the restrictions or limitations shall apply to a resident of that state, commonwealth, or Canadian province in California. This section shall not be construed to require a countersignature on a policy or contract, or the payment of a countersignature fee.

SEC. 5.8. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require, in advance, a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as any of the following:

(1) Fire and casualty broker-agent, fifty-six dollars ($56).

(2) Life agent, resident, forty-eight dollars ($48).

(3) Life agent, nonresident, fifty-three dollars ($53).

(4) Personal lines broker-agent, fifty-six dollars ($56).

(b) Notice for adding or removing from any life agent's, fire and casualty broker-agent's, or personal lines broker-agent's license issued to an organization the name of any natural person named thereon, sixteen dollars ($16).

(c) First amendment to an application, eight dollars ($8); a second and each subsequent amendment to an application, sixteen dollars ($16).

(d) Original application to be given the qualifying examination for a license of a fire and casualty or personal lines licensee, twenty-seven dollars ($27) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, twenty-seven dollars ($27) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section, twenty-seven dollars ($27) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 (commencing with Section 1685), twenty dollars ($20) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 thirty dollars ($30), except that there shall be no fee when the name is contained in an original application.

(i) ''A ratification of appointments of agents'' whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, one hundred three dollars ($103).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational

institution, or by a private nonprofit educational institution, one hundred three dollars ($103).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, fifty-five dollars ($55).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) or Section 1760.5 or 1765, except when the bond constitutes part of an original application filing, sixteen dollars ($16).

(*l*) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) or Sections 12280 and 12280.2, sixteen dollars ($16).

(m) An application or request for clearance and cancellation notice of a current licensee of record, sixteen dollars ($16).

(n) An amended action notice pursuant to subdivision (e) of Section 1704, five dollars ($5).

SEC. 6. Section 1751.8 is added to the Insurance Code to read:

1751.8. The Department of Insurance shall investigate and implement a system, and report to the Legislature by January 1, 2001, regarding that system, under which license fees can be paid electronically.

SEC. 7. Article 16.7 (commencing with Section 1758.9) is added to Chapter 5 of Part 2 of Division 1 of the Insurance Code, to read:

Article 16.7. Credit Insurance Agents

1758.9. No person shall sell or solicit any form of credit insurance in this state, and receive a commission for their efforts, unless that person is licensed as an insurance agent or broker pursuant to Article 3 (commencing with Section 1631) or is licensed as a credit insurance agent or endorsee under this article.

1758.91. The commissioner may issue to an applicant that has complied with the requirements of this article, a credit insurance agent license to offer or sell those types of insurance specified in Section 1758.96 in connection with, and incidental to, a loan or extension of credit, on behalf of any insurer authorized to write those types of insurance in this state.

1758.92. (a) An applicant for a credit insurance agent license under this article shall submit each of the following to 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 credit insurance 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 in reference to selling or soliciting the kind or kinds of insurance that are permitted by this article, if the credit insurance 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 costs of processing the application or renewal and implementing this article.

The limitation on fee increases of 10 percent without prior approval of the Legislature set forth in Section 12978 shall not apply to the application or renewal fee set forth in this subdivision during the years 2002, 2003, and 2004.

(b) Notwithstanding any other provision of law to the contrary, the provisions set forth in Sections 1667, 1668, 1668.5, 1669, 1670, 1738, and 1739 apply to any application for or issuance of a license, or any application for or approval of an endorsee, pursuant to this article.

1758.93. (a) An employee of an organization that has been issued a credit insurance agent license pursuant to this article may be an endorsee on the license if all of the following conditions have been met:

(1) The employee is 18 years of age or older.

(2) The employee submits an application to the department that includes a signed affidavit, in a form prescribed by the commissioner, stating the applicant has read the credit insurance training material submitted to the commissioner and that the applicant has received from the organization training in, and is knowledgeable about, the credit insurance products to be sold, ethics, and market practices.

(3) The employee submits an application fee, and each year thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department's actual costs of processing the application or renewal and implementing this article.

(b) Prior to allowing any endorsee to offer or sell credit-related insurance, the licensed organization shall provide training to each endorsee about the credit insurance products to be sold, and shall submit annually to the department the names of endorsees and a statement of compliance with this article. Training materials used by the organization to train endorsees shall be submitted to the department at the time the organization applies for its credit insurance agent license, and each year thereafter when that license is renewed. 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 credit insurance licensee 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.

(c) The credit insurance agent shall periodically retrain its endorsees.

1758.94. (a) The manager at each business location of an organization licensed as a credit insurance agent, shall be listed as an endorsee on the organization's license and shall be responsible for the training and supervision of each additional endorsee at that location. Each licensee shall identify the endorsee who is the manager at each location for the purposes of this article.

(b) An employee of a credit insurance agent who complies with the requirements of Section 1758.93, and is endorsed on the license of the credit insurance agent, may act on behalf of, and under the supervision of, the credit insurance agent in matters relating to transacting insurance under that agent's license. The conduct of an endorsee of a credit insurance agent acting within the scope of employment or agency shall be deemed the conduct of the credit insurance agent for purposes of this article.

1758.95. (a) If a licensee or endorsee violates any provision of this article or any other provision of this code, the commissioner may do either of the following:

(1) After notice and hearing, suspend or revoke the license of the credit insurance agent.

(2) After notice and hearing, impose other penalties that the commissioner deems necessary and convenient to carry out the purposes of this code, including suspending the privilege of transacting credit insurance pursuant to this article at specific business locations where violations have occurred, imposing fines on the credit insurance agent, individual endorsees or endorsee managers, and suspending or revoking the endorsement of a named endorsee or endorsee manager.

(b) If any person sells insurance in connection with or incidental to a loan or other extension of credit or holds himself or herself or an organization out as a credit insurance agent without obtaining the license required by this article, 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 organization issued a license pursuant to this article and any endorsee to that license.

1758.96. A person licensed pursuant to this article may act as a credit insurance agent for an authorized insurer only with respect to the kinds of insurance specified in this section sold in connection with and incidental to a loan or other extension of credit other than a loan in excess of sixty thousand dollars ($60,000) relating to or secured by real property where the repayment period does not exceed 10 years. The sale of credit insurance products as specified in this section in excess of sixty thousand dollars ($60,000) relating to or secured by real property where any compensation, fee, or commission is paid dependent on the placement of credit insurance, requires a license to act as an insurance agent or life agent pursuant to Section 1621 or 1622.

(a) Credit life insurance.

(b) Credit disability insurance.

(c) Credit involuntary unemployment insurance or credit loss-of-income insurance.

(d) Credit property insurance.

1758.97. A credit insurance agent shall not sell or offer to sell insurance pursuant to this article unless all of the following conditions are satisfied:

(a) The credit insurance agent provides brochures or other written materials to the prospective purchaser that do all of the following:

(1) Summarize the material terms and conditions of coverage offered, 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.

(b) The credit insurance agent makes all of the following disclosures, either with or as part of each individual policy or group certificate, or with a notice of proposed insurance, or, if the insurance is sold at the same time and place as the related credit transaction, in a statement acknowledged by the purchaser in writing on a separate form, electronically, digitally, or by tape recording:

(1) That the purchase of the kinds of insurance prescribed in this article is not required in order to secure the loan or an extension of credit.

(2) That the insurance coverage offered by the credit insurance agent may provide a duplication of coverage already provided by a purchaser's other personal insurance policies or by another source of coverage.

(3) That the endorsee is not qualified or authorized to evaluate the adequacy of the purchaser's existing coverages, unless the individual is licensed pursuant to Article 3 (commencing with Section 1631).

(4) That the customer may cancel the insurance at any time. If the customer cancels within 30 days from the delivery of the insurance policy, certificate, or notice of proposed insurance, the premium will be refunded in full. If the customer cancels at any time thereafter, any unearned premium will be refunded in accordance with applicable law.

(c) Evidence of coverage is provided to every person who elects to purchase that coverage.

(d) Costs for the insurance are separately itemized in any loan, credit, or retail agreement.

(e) The insurance is provided under an individual policy issued to the purchaser or under a group or master policy issued to the organization licensed as a credit insurance agent by an insurer authorized to transact the applicable kinds or types of insurance in this state. Any of the conditions and disclosures specified in this section shall be deemed satisfied if the consumer is otherwise provided with the information required in this section by any other disclosures required by existing federal or state law or regulations.

No statement, disclosure, or notice made for the purpose of compliance with this section shall be construed to cause the policy form, certificate of insurance, or notice of proposed insurance, by themselves, to be considered nonstandard forms, as described in Article 6.9 (commencing with Section 2249) of Subchapter 2 of Chapter 5 of Title 10 of the California Code of Regulations.

1758.98. Under the authority of the credit insurance agent license, a credit insurance agent shall not do any of the following:

(a) Offer to sell insurance except in conjunction with, and incidental to, a loan or extension of credit.

(b) Advertise, represent, or otherwise portray itself or its employees, agents, or endorsees as licensed insurers, life agents, or fire and casualty broker-agents.

(c) Pay any unlicensed person any compensation, fee, or commission dependent on the placement of insurance under the agent's license. Nothing in this subdivision shall prohibit production payments or incentive payments to an endorsee.

1758.99. An organization licensed as a credit insurance agent shall prominently display its license number and the department's toll free consumer hot line telephone number on brochures and information sheets required by this article and on any evidence of insurance.

1758.991. Any insurer that provides insurance to be sold by an organization licensed as a credit insurance agent 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 credit agent, with the commissioner, who shall make that policy available to the public.

1758.992. As used in this article, the following definitions have the following meanings:

(a) ''Enrollment'' means the process of soliciting or accepting enrollments or applications from a debtor under a credit insurance policy, which includes informing the debtor of the availability of coverage, calculating the insurance charge, preparing and delivering the certificate of insurance or notice of proposed insurance, answering questions regarding the coverage, or otherwise assisting the debtor in making an informed decision whether or not to elect to purchase credit insurance.

(b) ''Creditor'' means a lender of money or a vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of that lender, vendor, or lessor, and any affiliate, associate, subsidiary, subcontractor, director, officer, or employee of any of them or any other person in any way associated with any of them.

(c) ''Credit insurance agent license'' means an agent license issued to an individual or organization for the enrollment and sale of credit insurance.

(d) ''Credit insurance'' includes credit life insurance, credit disability insurance, credit involuntary unemployment insurance, credit loss-of-income insurance, or credit property insurance.

(e) ''Credit life insurance'' and ''credit disability insurance'' have the same meanings, and include only those forms of insurance, as defined in Sections 779.2 and 779.3.

(f) ''Credit involuntary unemployment insurance'' or ''credit loss-of-income insurance'' means insurance issued to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(g) ''Credit property insurance'' means insurance that provides coverage (1) on personal property pledged or offered as collateral for securing a personal or consumer loan, or (2) on personal property purchased under an installment sales agreement or through a consumer credit transaction, but does not include any insurance that provides theft, collision, liability, property damage, or comprehensive insurance coverage in any automobile or any other self-propelled vehicle that is designed primarily for operation in the air or on the highways, waterways, or sea, and its operating equipment, or that is necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use of those vehicles. However, that excluded insurance does include single interest coverage on any of

those vehicles that insures the interest of the creditor in the same manner as collateral secures a loan.

1758.993. Nothing in this article regulating the sale of credit insurance shall be construed to impair or impede the application of any other law regulating the sale of credit insurance, including, but not limited to, the California Finance Lenders Law, Division 9 (commencing with Section 22000) of the Financial Code.

1758.994. The commissioner shall submit a report to the Legislature by June 30, 2004, regarding the effectiveness of this article in protecting consumers involved in credit insurance transactions. This report shall include, but not be limited to, the number and categories of licensees licensed pursuant to this article, the number and nature of enforcement actions related to credit insurance licensing or marketing issues, and any needed legislative reforms recommended by the commissioner.

SEC. 8. The Insurance Commissioner shall adopt rules to implement this act, including rules applicable equally to employees of insurers and producers specifying what constitutes clerical changes for the purpose of Section 1635 of the Insurance Code. The rules shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code, and for the purpose 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. 9. The provisions of this act shall become operative on January 1, 2002, so as to provide for an orderly regulatory process. The Legislature declares that enactment of this act, which sets fees for specific license categories, shall not be construed to affect the validity of any fee increases adopted by the commissioner pursuant to Section 12978.

SEC. 10. The first-year startup costs incurred by state agencies that are associated with the implementation of this act shall be reimbursed from fee revenues authorized by this act that are received in subsequent years.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or

changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 322

An act to amend Sections 1241, 1265, 1287, 1301, and 1324 of, and to add Sections 1269.5, 1281.1, 1282.2, 1282.3, and 1311 to, the Business and Professions Code, to amend Sections 186.2 and 923 of the Penal Code, and to amend Sections 14040, 14040.5, 14043.1, 14043.2, 14043.36 14043.37, 14043.65, 14043.7, 14043.75, 14100.75, 14107, 14107.11, 14124.1, 14124.2, 14170, 14170.8, 14171.6, and 24005 of, and to add Sections 14040.1, 14043.34, 14043.61, 14043.62, and 14123.25 to, the Welfare and Institutions Code, relating to health.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 1241 of the Business and Professions Code is amended to read:

1241. (a) This chapter applies to all clinical laboratories in California or receiving biological specimens originating in California for the purpose of performing a clinical laboratory test or examination, and to all persons performing clinical laboratory tests or examinations or engaging in clinical laboratory practice in California or on biological specimens originating in California, except as provided in subdivision (b).

(b) This chapter shall not apply to any of the following clinical laboratories, or to persons performing clinical laboratory tests or examinations in any of the following clinical laboratories:

(1) Those owned and operated by the United States of America, or any department, agency, or official thereof acting in his or her official capacity to the extent that the Secretary of the federal Department of Health and Human Services has modified the application of CLIA requirements to those laboratories.

(2) Public health laboratories, as defined in Section 1206.

(3) Those that perform clinical laboratory tests or examinations for forensic purposes only.

(4) Those that perform clinical laboratory tests or examinations for research and teaching purposes only and do not report or use patient-specific results for the diagnosis, prevention, or treatment of any

disease or impairment of, or for the assessment of the health of, an individual.

(5) Those that perform clinical laboratory tests or examinations certified by the National Institutes on Drug Abuse only for those certified tests or examinations. However, all other clinical laboratory tests or examinations conducted by the laboratory are subject to this chapter.

(6) Those that register with the State Department of Health Services pursuant to subdivision (c) to perform blood glucose testing for the purposes of monitoring a minor child diagnosed with diabetes when the person performing the test has been entrusted with the care and control of the child by the child's parent or legal guardian and provided that all of the following occur:

(A) The blood glucose monitoring test is performed with a blood glucose monitoring instrument that has been approved by the federal Food and Drug Administration for sale over the counter to the public without a prescription.

(B) The person has been provided written instructions by the child's health care provider or an agent of the child's health care provider in accordance with the manufacturer's instructions on the proper use of the monitoring instrument and the handling of any lancets, test strips, cotton balls, or other items used during the process of conducting a blood glucose test.

(C) The person, receiving written authorization from the minor's parent or legal guardian, complies with written instructions from the child's health care provider, or an agent of the child's health care provider, regarding the performance of the test and the operation of the blood glucose monitoring instrument, including how to determine if the results are within the normal or therapeutic range for the child, and any restriction on activities or diet that may be necessary.

(D) The person complies with specific written instructions from the child's health care provider or an agent of the child's health care provider regarding the identification of symptoms of hypoglycemia or hyperglycemia, and actions to be taken when results are not within the normal or therapeutic range for the child. The instructions shall also contain the telephone number of the child's health care provider and the telephone number of the child's parent or legal guardian.

(E) The person records the results of the blood glucose tests and provides them to the child's parent or legal guardian on a daily basis.

(F) The person complies with universal precautions when performing the testing and posts a list of the universal precautions in a prominent place within the proximity where the test is conducted.

(7) Those individuals who perform clinical laboratory tests or examinations, approved by the federal Food and Drug Administration

for sale to the public without a prescription in the form of an over-the-counter test kit, on their own bodies or on their minor children or legal wards.

(c) Any place where blood glucose testing is performed pursuant to paragraph (6) of subdivision (b) shall register by notifying the State Department of Health Services in writing no later than 30 days after testing has commenced. Registrants pursuant to this subdivision shall not be required to pay any registration or renewal fees nor shall they be subject to routine inspection by the State Department of Health Services.

SEC. 2. Section 1265 of the Business and Professions Code is amended to read:

1265. (a) (1) A clinical laboratory performing clinical laboratory tests or examinations classified as of moderate or of high complexity under CLIA shall obtain a clinical laboratory license pursuant to this chapter. The department shall issue a clinical laboratory license to any person who has applied for the license on forms provided by the department and who is found to be in compliance with this chapter and the regulations pertaining thereto. No clinical laboratory license shall be issued by the department unless the clinical laboratory and its personnel meet the CLIA requirements for laboratories performing tests or examinations classified as of moderate or high complexity, or both.

(2) A clinical laboratory performing clinical laboratory tests or examinations subject to a certificate of waiver or a certificate of provider-performed microscopy under CLIA, shall register with the department. The department shall issue a clinical laboratory registration to any person who has applied for the registration on forms provided by the department and is found to be in compliance with this chapter, the regulations pertaining thereto, and the CLIA requirements for either a certificate of waiver or a certificate of provider-performed microscopy.

(b) An application for a clinical laboratory license or registration shall include the name or names of the owner or the owners, the name or names of the laboratory director or directors, the name and location of the laboratory, a list of the clinical laboratory tests or examinations performed by the laboratory by name and total number of test procedures and examinations performed annually (excluding tests the laboratory may run for quality control, quality assurance, or proficiency testing purposes). The application shall also include a list of the tests and the test kits, methodologies, and laboratory equipment used, and the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and test procedures, and any other relevant information as may be required by the department. If the laboratory is performing tests subject to a provider-performed microscopy certificate, the name of the provider or providers performing those tests shall be

included on the application. Application shall be made by the owners of the laboratory and the laboratory directors prior to its opening. A license or registration to conduct a clinical laboratory if the owners are not the laboratory directors shall be issued jointly to the owners and the laboratory directors and the license or registration shall include any information as may be required by the department. The owners and laboratory directors shall be severally and jointly responsible to the department for the maintenance and conduct thereof or for any violations of this chapter and regulations pertaining thereto.

(c) The department shall not issue a license or registration until it is satisfied that the clinical laboratory will be operated within the spirit and intent of this chapter, that the owners and laboratory directors are each of good moral character, and that the granting of the license will not be in conflict with the interests of public health.

(d) A separate license or registration shall be obtained for each laboratory location, with the following exceptions:

(1) Laboratories that are not at a fixed location, that is, laboratories that move from one testing site to another, such as mobile units providing laboratory testing, health screening fairs, or other temporary testing locations, may apply for and obtain one license or registration for the designated primary site or home base, using the address of that primary site.

(2) Not-for-profit, or federal, state, or local government laboratories that engage in limited (not more than a combination of 15 moderately complex or waived tests, as defined under CLIA, per license) public health testing may apply for and obtain a single license or registration.

(3) Laboratories within a hospital that are located at contiguous buildings on the same campus and under common direction, may file a single application or multiple applications for a license or registration of laboratory locations within the same campus or street address.

(4) Locations within a single street and city address that are under common ownership may apply for and obtain a single license or registration or multiple licenses or registrations, at the discretion of the owner or owners.

(e) (1) A license or registration shall be valid for one year unless revoked or suspended. A clinical laboratory license or registration shall be automatically revoked 30 days from a major change of laboratory directorship or ownership. The clinical laboratory shall be required to submit a completed application for a new clinical laboratory license or registration within those 30 days or cease engaging in clinical laboratory practice.

(2) If a clinical laboratory intends to continue to engage in clinical laboratory practice during the 30 days after a major change in directorship occurs and before the laboratory license or registration is

automatically revoked, the laboratory owner may appoint an interim director who meets the requirements of this chapter and CLIA. The interim director shall be appointed within five business days of the major change of the directorship. Written notice shall be provided to the department of the appointment of the laboratory director pursuant to this paragraph within five business days of the appointment.

(f) If the department does not within 60 days after the date of receipt of the application issue a license or registration, it shall state the grounds and reasons for its refusal in writing, serving a copy upon the applicant by certified mail addressed to the applicant at his or her last known address.

(g) The department shall be notified in writing by the laboratory owners or delegated representatives of the owners and the laboratory directors of any change in ownership, directorship, name, or location, including the addition or deletion of laboratory owners or laboratory directors within 30 days. However, notice of change in ownership shall be the responsibility of both the current and new owners. Laboratory owners and directors to whom the current license or registration is issued shall remain jointly and severally responsible to the department for the operation, maintenance, and conduct of the clinical laboratory and for any violations of this chapter or the regulations adopted thereunder, including any failure to provide the notifications required by this subdivision, until proper notice is received by the department. In addition, failure of the laboratory owners and directors to notify the department within 30 days of any change in laboratory directors, including any additions or deletions, shall result in the automatic revocation of the clinical laboratory's license or registration.

(h) The withdrawal of an application for a license or registration or for a renewal of a license, or registration, issuable under this chapter, shall not, after the application has been filed with the department, deprive the department of its authority to institute or continue a proceeding against the applicant for denial of the license, registration, or renewal upon any ground provided by law or to enter an order denying the license, registration, or renewal upon any such ground, unless the department consents in writing to the withdrawal.

(i) The suspension, expiration, or forfeiture by operation of law of a license or registration issued under this chapter, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue an action against a license or registration issued under this chapter or against the laboratory owner or laboratory director upon any ground provided by law or to enter an order suspending or revoking the license or registration issued under this chapter.

(j) (1) Whenever a clinical laboratory ceases operations, the laboratory owners, or delegated representatives of the owners, and the laboratory directors shall notify the department of this fact, in writing, within 30 calendar days from the date a clinical laboratory ceases operation. For purposes of this subdivision, a laboratory ceases operations when it suspends the performance of all clinical laboratory tests or examinations for 30 calendar days at the location for which the clinical laboratory is licensed or registered.

(2) (A) Notwithstanding any other provision of law, owners and laboratory directors of all clinical laboratories, including those laboratories that cease operations, shall preserve medical records and laboratory records, as defined in this section, for three years from the date of testing, examination, or purchase, unless a longer retention period is required pursuant to any other provision of law, and shall maintain an ability to provide those records when requested by the department or any duly authorized representative of the department.

(B) For purposes of this subdivision, ''medical records'' means the test requisition or test authorization, or the patient's chart or medical record, if used as the test requisition, the final and preliminary test or examination result, and the name of the person contacted if the laboratory test or examination result indicated an imminent life-threatening result or was of panic value.

(C) For purposes of this subdivision, ''laboratory records'' means records showing compliance with CLIA and this chapter during a laboratory's operation that are actual or true copies, either photocopies or electronically reproducible copies, of records for patient test management, quality control, quality assurance, and all invoices documenting the purchase or lease of laboratory equipment and test kits, reagents, or media.

(D) Information contained in medical records and laboratory records shall be confidential, and shall be disclosed only to authorized persons in accordance with federal, state, and local laws.

(3) The department or any person injured as a result of a laboratory's abandonment or failure to retain records pursuant to this section may bring an action in a court of proper jurisdiction for any reasonable amount of damages suffered as a result thereof.

SEC. 3. Section 1269.5 is added to the Business and Professions Code, to read:

1269.5. The department may deny, suspend, or revoke any license, registration, or certificate issued under this chapter for performance by unlicensed laboratory personnel of any activity that is not authorized by Section 1269.

SEC. 4. Section 1281.1 is added to the Business and Professions Code, to read:

1281.1. It is unlawful for any person, including a person who owns, operates, or directs a clinical laboratory, to provide, offer, or solicit, any form of payment or gratuity for human blood or any other biological specimen provided for the purpose of clinical laboratory testing or clinical laboratory practice, unless the person is serving as an agent of a clinical laboratory or another facility legally utilizing those specimens only for purposes of research or teaching or for quality assurance purposes, or is an entity licensed under Chapter 4 (commencing with Section 1600) of Division 2 of the Health and Safety Code.

SEC. 5. Section 1282.2 is added to the Business and Professions Code, to read:

1282.2. It is unlawful for any person to perform venipuncture, skin puncture, or arterial puncture to collect a biological specimen unless he or she is authorized to do so under this chapter, the regulations adopted thereunder, or under other provisions of law.

SEC. 6. Section 1282.3 is added to the Business and Professions Code, to read:

1282.3. (a) It is unlawful for any person to act with willful or wanton disregard for a person's safety that exposes the person to a substantial risk of, or that causes, great bodily injury by affecting the integrity of a clinical laboratory test or examination result through improper collection, handling, storage, or labeling of the biological specimen or the erroneous transcription or reporting of clinical laboratory test or examination results.

(b) Notwithstanding Section 1287, a violation of this section shall be punished, upon first conviction, by imprisonment in a county jail for a period of not more than one year, or by imprisonment in a state prison for 16 months, or two or three years, by a fine not exceeding fifty thousand dollars ($50,000), or by both this fine and imprisonment. A second or subsequent conviction is punishable by imprisonment in the state prison for two, four, or six years, by a fine not exceeding fifty thousand dollars ($50,000), or by both this fine and imprisonment.

(c) The enforcement remedies provided under this section are not exclusive, and shall not preclude the use of any other criminal or civil remedy. However, an act or omission punishable in different ways by this section and any other provision of law shall not be punished under more than one provision. Under those circumstances, the penalty to be imposed shall be determined as set forth in Section 654 of the Penal Code.

SEC. 7. Section 1287 of the Business and Professions Code is amended to read:

1287. (a) Any person who violates any provision of this chapter is guilty of a misdemeanor punishable upon conviction by imprisonment

in the county jail for a period not exceeding six months or by fine not exceeding one thousand dollars ($1,000) or by both.

(b) (1) Notwithstanding subdivision (a), a violation of Section 1281.1 is a public offense and is punishable upon conviction by imprisonment in the county jail for not more than one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine.

(2) Notwithstanding subdivision (a), a violation of Section 1282.2 is a public offense and is punishable upon conviction by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) The enforcement remedies provided under this section are not exclusive, and shall not preclude the use of any other criminal or civil remedy. However, an act or omission punishable in different ways by this section and any other provision of law shall not be punished under more than one provision. Under those circumstances, the penalty to be imposed shall be determined as set forth in Section 654 of the Penal Code.

SEC. 8. Section 1301 of the Business and Professions Code is amended to read:

1301. (a) The annual renewal fee for a clinical laboratory license or registration set under this chapter shall be paid during the 30-day period before the expiration date of the license or registration. Failure to pay the annual fee in advance during the time the license remains in force shall, ipso facto, work a forfeiture of said license after a period of 60 days from the expiration date of the license or registration.

(b) (1) The department shall give written notice to all persons licensed pursuant to Sections 1260, 1260.1, 1261, 1261.5, 1262, 1264, or 1270 30 days in advance of the regular renewal date that a renewal fee has not been paid. In addition, the department shall give written notice to licensed clinical laboratory bioanalysts or doctoral degree specialists and clinical laboratory scientists or limited clinical laboratory scientists by registered or certified mail 90 days in advance of the expiration of the fifth year that a renewal fee has not been paid and if not paid before the expiration of the fifth year of delinquency the licensee may be subject to reexamination.

(2) If the renewal fee is not paid for five or more years, the department may require an examination before reinstating the license, except that no examination shall be required as a condition for reinstatement if the original license was issued without an examination. No examination shall be required for reinstatement if the license was forfeited solely by reason of nonpayment of the renewal fee if the nonpayment was for less than five years.

(3) If the license is not renewed within 60 days after its expiration, the licensee, as a condition precedent to renewal, shall pay the delinquency fee identified in subdivision (*l*) of Section 1300, in addition to the renewal fee in effect on the last preceding regular renewal date. Payment of the delinquency fee will not be necessary if within 60 days of the license expiration date the licensee files with the department an application for inactive status.

SEC. 9. Section 1311 is added to the Business and Professions Code, to read:

1311. The department shall have three years from the date of a violation of this chapter or of a regulation adopted thereunder to file a civil or administrative action.

SEC. 10. Section 1324 of the Business and Professions Code is amended to read:

1324. Except for a person or entity whose license was revoked automatically under Section 1265, no person or entity who has owned or operated a clinical laboratory that had its license or registration revoked may, within two years of the revocation of the license or registration, own or operate a laboratory for which a license or registration has been issued under this chapter.

SEC. 11. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of this chapter, the following definitions apply:

(a) ''Criminal profiteering activity'' means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 550.

(21) False or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code.

(22) Money laundering, as defined in Section 186.10.

(23) Offenses relating to the counterfeit of a registered mark, as specified in Section 350.

(24) Offenses relating to the unauthorized access to computers, computer systems, and computer data, as specified in Section 502.

(25) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(26) Engaging in a pattern of criminal gang activity, as defined in subdivision (e) of Section 186.22.

(b) ''Pattern of criminal profiteering activity'' means engaging in at least two incidents of criminal profiteering, as defined by this act, that meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts that would constitute a ''pattern of criminal profiteering activity'' may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) ''Prosecuting agency'' means the Attorney General or the district attorney of any county.

(d) ''Organized crime'' means crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography, or that, through planning and coordination of

individual efforts, seeks to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors. ''Organized crime'' also means crime committed by a criminal street gang, as defined in subdivision (f) of Section 186.22. ''Organized crime'' also means false or fraudulent activities, schemes, or artifices, as described in Section 14107 of the Welfare and Institutions Code.

(e) ''Underlying offense'' means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 12. Section 923 of the Penal Code is amended to read:

923. (a) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, direct the grand jury to convene for the investigation and consideration of those matters of a criminal nature that he or she desires to submit to it. He or she may take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

(b) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, petition the court to impanel a special grand jury to investigate, consider, or issue indictments for any of the activities subject to fine, imprisonment, or asset forfeiture under Section 14107 of the Welfare and Institutions Code. He or she may take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. If the evidence presented to the grand jury shows the commission of an offense or offenses for which jurisdiction would be in a county other than the county where the grand jury is impaneled, the Attorney General, with or without the concurrence of the district attorney in the county with jurisdiction over the offense or offenses, may petition the court to impanel a special grand jury in that county. Notwithstanding any other provision of law, upon request of the Attorney General, a grand jury convened by the Attorney General pursuant to this subdivision may submit confidential information obtained by that grand jury, including, but not limited to documents and testimony, to a second grand jury that has been impaneled at the request of the Attorney General pursuant to this subdivision in any other county where venue for an offense or offenses shown by evidence presented to the first grand jury is proper. All confidentiality provisions governing information, testimony, and evidence presented to a grand jury shall be applicable except as expressly permitted by this subdivision. The Attorney General shall inform the grand jury that transmits confidential

information and the grand jury that receives confidential information of any exculpatory evidence, as required by Section 939.71. The grand jury that transmits information to another grand jury shall include the exculpatory evidence disclosed by the Attorney General in the transmission of the confidential information. The Attorney General shall inform both the grand jury transmitting the confidential information and the grand jury receiving that information of their duties under Section 939.7. A special grand jury convened pursuant to this subdivision shall be in addition to the other grand juries authorized by this chapter or Chapter 2 (commencing with Section 893).

(c) Upon certification by the Attorney General, a statement of the costs directly related to the impanelment and activities of the grand jury pursuant to subdivision (b) from the presiding judge of the superior court where the grand jury was impaneled shall be submitted for state reimbursement of the costs to the county.

SEC. 13. Section 14040 of the Welfare and Institutions Code is amended to read:

14040. (a) Each contract for fiscal intermediary services shall allow, to the extent practicable, providers to utilize electronic means for transmitting claims to the fiscal intermediary contractor. Means of transmission, and the manner and format used, shall be approved by the director. In determining which electronic means are acceptable, the director shall consider magnetic tape, computer-to-computer via telephone, diskettes, and any other methods which may become available through technological advancements.

(b) A provider, as defined in Section 14043.1, may assign signature authority for transmission of claims to the provider's authorized representative or the registered billing agent of the provider identified to the department pursuant to subdivision (c) of Section 14040.5.

(c) The department shall develop reasonable standards for participation and continued participation by providers and billing agents in the use of claims transmission methods utilized pursuant to this section. These standards shall be designed to ensure that providers and billing agents submit technically complete claims and to reduce the potential for fraud and abuse. The department shall notify providers and billing agents of any planned changes to the claims transmission standards prior to the implementation of the changes. A ''technically complete claim'' means any billing request for payment from a provider or the billing agent of the provider, including an original claim, claim inquiry, or appeal, that is submitted on the correct Medi-Cal claim form or electronic billing format, is fully and accurately completed, and includes all information and documentation required to be submitted on or with the claim pursuant to Medi-Cal billing and documentation requirements.

(d) To the extent required by federal and state law, the fiscal intermediary shall retain claim data submitted by providers or the billing agent of the provider pursuant to this section. The department shall, however, return to a provider or the billing agent of the provider original tapes, diskettes, and any other similar devices that are used by the provider or the billing agent of the provider pursuant to this section.

(e) In order to reduce the amount of paperwork or attachments which are required to be completed by a provider or the billing agent of the provider submitting a claim for reimbursement under this chapter to the fiscal intermediary, the department shall direct the fiscal intermediary to investigate and develop the means to incorporate as much information as possible on the electronic format.

(f) Each provider and billing agent submitting claims shall be responsible for ensuring that each claim submitted for reimbursement for services, goods, supplies, or merchandise rendered or supplied by the provider to a Medi-Cal beneficiary or under the Medi-Cal program meets the standards established by the department pursuant to this section.

SEC. 14. Section 14040.1 is added to the Welfare and Institutions Code, to read:

14040.1. (a) ''Billing agent'' or ''billing agent of the provider'' means any individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents of any partnership, group, association, corporation, institution, or entity, that submits claims on behalf of the provider, as defined in Section 14043.1, for reimbursement for services, goods, supplies, or merchandise rendered or provided directly or indirectly to a Medi-Cal beneficiary or under the Medi-Cal program. As used in this section a billing agent shall not include an authorized representative of a provider billing solely for that provider, a provider wholly owned entity billing solely for the provider, or a clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code or exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code when preparing and submitting claims for services provided on behalf of the clinic. For purposes of this subdivision, an authorized representative shall be either an individual who is an employee of the provider or an individual with a familial relationship to the provider. For purposes of this section and Section 14040.5, an authorized representative, a provider wholly owned entity billing solely for the provider, or a clinic that is licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code or exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, when preparing and submitting claims for services provided on behalf of the clinic, shall be considered a provider.

(b) The department shall establish standards for the registration or continued registration of each billing agent. The standards shall establish time periods, no longer than a year from the date the standards become effective, after which, no billing agent shall submit a claim on behalf of a provider, as defined in Section 14043.1, for reimbursement for services, goods, supplies, or merchandise rendered or provided directly or indirectly by the provider to a Medi-Cal beneficiary or under the Medi-Cal program, unless that billing agent has been registered with the department. The department shall establish the standards for the registration or continued registration of billing agents pursuant to this subdivision, in consultation with interested parties, by the adoption of emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these emergency regulations or readoption of the regulations shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340 of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted or readopted pursuant to this subdivision shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this subdivision shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(c) The department may complete a background check on applicants for registration or continued registration as a billing agent, for the purpose of verifying the accuracy of information provided by an applicant for registration or continued registration as a billing agent or in order to prevent fraud and abuse. The background check may include, but not be limited to, onsite inspection, review of business records, and data searches.

(d) As a condition of registration, or continued registration, as a billing agent, an applicant for registration as a billing agent shall provide to the department a surety bond of not less than fifty thousand dollars ($50,000). This subdivision shall become operative only if the director executes a declaration, that shall be retained by the director, stating that the surety bonds described in this paragraph are commercially offered throughout the state and by more than one vendor.

SEC. 15. Section 14040.5 of the Welfare and Institutions Code is amended to read:

14040.5. (a) A provider may, by written contract, do either of the following:

(1) Authorize a billing agent to submit claims, including electronic claims, on behalf of the provider for reimbursement for services, goods,

supplies, or merchandise provided by the provider to the Medi-Cal program or a Medi-Cal beneficiary.

(2) Assign signature authority for transmission of the claims by the authorized billing agent.

(b) If a contract as described in subdivision (a) is entered into, the contract shall meet the requirements of Section 447.10 of Title 42 of the Code of Federal Regulations or shall have been approved by the federal Health Care Financing Administration for purposes of the Medicare program.

(c) Any provider intending to use a billing agent to submit claims for reimbursements to the Medi-Cal program shall provide, at least 30 days prior to the submission of any claims for reimbursement by the billing agent, written notification to the director of the name, including known legal and any known fictitious or ''doing business as'' names used by the billing agent, the address, and the telephone number of the billing agent.

(d) Billing agents shall register with the director and shall obtain a unique identifier prior to submitting any claims for reimbursement. This unique identifier shall be part of each claim for reimbursement submitted by the billing agent.

(e) (1) Any Medi-Cal claim submitted by a billing agent or provider failing to comply with the requirements of this section or Section 14040 or 14040.1, or the regulations adopted pursuant to these sections, shall be subject to denial by the director.

(2) The director may deny, suspend, or revoke the registration or continued registration of a billing agent based upon any of the following grounds:

(A) Failure of the billing agent to comply with this section or Section 14040.1 or the regulations adopted under these sections.

(B) Involvement of a billing agent in illegal submission of claims.

(C) The billing agent is under investigation for fraud or abuse, as defined in Section 14043.1, by the department or any federal, state, or local law enforcement agency.

(3) The director may immediately revoke or suspend the registration or continued registration of a billing agent upon the involvement of that billing agent in the filing of false or misleading information on claims submitted for services allegedly rendered, or when a billing agent has demonstrated a pattern of filing claims that are not technically complete claims as defined in subdivision (c) of Section 14040. The director shall not take action to revoke or suspend a billing agent's registration or continued registration when the falsity or misleading nature of the information was the result of the provider's actions and not the billing agent's.

(4) Proceedings for suspension or revocation of the registration or continued registration of a billing agent pursuant to this section shall be

conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that hearings may be conducted by departmental hearing officers appointed by the director. The director may periodically contract with the Office of Administrative Hearings to conduct these hearings.

(5) The director shall provide written notification outlining the reasons for the proposed action to the billing agent 30 days in advance of a proposed suspension or revocation and shall allow the billing agent to demonstrate within those 30 days by comment why the suspension or revocation notice should not be issued.

(6) If after consideration of the billing agent's comment, the director determines that the suspension or revocation is nonetheless warranted, the director shall notify the billing agent of the suspension or revocation and the effective date thereof and at the same time shall serve the billing agent with an accusation. In addition, the director shall send each provider utilizing the services of the billing agent written notice of the suspension or revocation of the billing agent. The suspension or revocation of the billing agent shall take effect 15 days from the date of the notification of the billing agent and service of the accusation. To the extent allowed by federal law, the director may waive any claims submission requirement to assist a provider in submitting or resubmitting claims to the Medi-Cal program when they are delayed because of a billing agent's suspension or revocation. Upon receipt of a notice of defense by the billing agent, the director shall set the matter for hearing within 30 days of the receipt of the notice. The suspension or revocation shall remain in effect until the hearing is completed and the director has made a final determination on the merits. The suspension or revocation shall, however, be deemed vacated if the director fails to make a final determination on the merits within 60 days of the completion of the original hearing.

(7) Paragraph (4) of this subdivision shall not apply where the suspension or revocation of a billing agent is based upon the conviction for any crime involving fraud, abuse of the Medi-Cal program, or suspension from the federal Medicare or medicaid programs, or where the billing agent has entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years. In those instances, suspension or revocation shall be automatic and not subject to administrative appeal or hearing. In those instances, the director shall send each provider utilizing the services of the billing agent written notice of the automatic suspension or revocation of the billing agent. To the extent allowed by federal law, the director may waive any claims submission requirement to assist a provider in submitting or resubmitting claims to the Medi-Cal program when they

are delayed because of a billing agent's automatic suspension or revocation.

(8) Notwithstanding Section 100171 of the Health and Safety Code, proceedings for the denial of the registration of a billing agent pursuant to this section shall be conducted in accordance with Section 14043.65. This subdivision shall not apply where the denial is based upon conviction of any crime involving fraud or abuse of the Medi-Cal program or the federal medicaid or Medicare programs, or exclusion by the federal government from the medicaid or Medicare programs. In this case, the denial shall be automatic and not subject to administrative appeal or hearing.

(f) For purposes of this section, ''billing agent'' has the same meaning as defined in Section 14040.1.

(g) As used in this section ''provider'' has the same meaning as defined in Section 14043.1.

SEC. 16. Section 14043.1 of the Welfare and Institutions Code is amended to read:

14043.1. As used in this article:

(a) ''Abuse'' means either of the following:

(1) Practices that are inconsistent with sound fiscal or business practices and result in unnecessary cost to the federal medicaid and Medicare programs, the Medi-Cal program, another state's medicaid program, or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state.

(2) Practices that are inconsistent with sound medical practices and result in reimbursement by the federal medicaid and Medicare programs, the Medi-Cal program or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.

(b) ''Applicant'' means any individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that applies to the department for enrollment as a provider in the Medi-Cal program.

(c) ''Convicted'' means any of the following:

(1) A judgment of conviction has been entered against an individual or entity by a federal, state, or local court, regardless of whether there is a posttrial motion or an appeal pending or the judgment of conviction or other record relating to the criminal conduct has been expunged or otherwise removed.

(2) A federal, state, or local court has made a finding of guilt against an individual or entity.

(3) A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity.

(4) An individual or entity has entered into participation in a first offender, deferred adjudication, or other program or arrangement where judgment of conviction has been withheld.

(d) ''Fraud'' means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(e) ''Provider'' means any individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents of any partnership, group association, corporation, institution, or entity, that provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary and that has been enrolled in the Medi-Cal program.

(f) ''Enrolled or enrollment in the Medi-Cal program'' means authorized under any and all processes by the department or its agents or contractors to receive, directly or indirectly, reimbursement for the provision of services, goods, supplies, or merchandise to a Medi-Cal beneficiary.

(g) ''Professionally recognized standards of health care'' means statewide or national standards of care, whether in writing or not, that professional peers of the individual or entity whose provision of care is an issue, recognize as applying to those peers practicing or providing care within a state. When the United States Department of Health and Human Services has declared a treatment modality not to be safe and effective, practitioners that employ that treatment modality shall be deemed not to meet professionally recognized standards of health care. This definition shall not be construed to mean that all other treatments meet professionally recognized standards of care.

(h) ''Unnecessary or substandard items or services'' means those that are either of the following:

(1) Substantially in excess of the provider's usual charges or costs for the items or services.

(2) Furnished, or caused to be furnished, to patients, whether or not covered by Medicare, medicaid, or any of the state health care programs to which the definitions of applicant and provider apply, and which are substantially in excess of the patient's needs, or of a quality that fails to meet professionally recognized standards of health care. The department's determination that the items or services furnished were excessive or of unacceptable quality shall be made on the basis of information, including sanction reports, from the following sources:

(A) The professional review organization for the area served by the individual or entity.

(B) State or local licensing or certification authorities.

(C) Fiscal agents or contractors, or private insurance companies.

(D) State or local professional societies.

(E) Any other sources deemed appropriate by the department.

SEC. 17. Section 14043.2 of the Welfare and Institutions Code is amended to read:

14043.2. (a) Whether or not regulations for certification are adopted under Section 14043.15, in order to be enrolled as a provider, or for enrollment as a provider to continue, an applicant or provider may be required to sign a provider agreement and shall disclose all information as required in federal medicaid regulations and any other information required by the department. Applicants, providers, and persons with an ownership or control interest, as defined in federal medicaid regulations, shall submit their social security number or numbers to the department, to the full extent allowed under federal law. The director may designate the form of a provider agreement by provider type. Failure to disclose the required information, or the disclosure of false information, shall result in denial of the application for enrollment or shall make the provider subject to temporary suspension from the Medi-Cal program, which shall include temporary deactivation of all provider numbers used by the provider to obtain reimbursement from the Medi-Cal program.

(b) The director shall notify the provider of the temporary suspension and deactivation of the provider's Medi-Cal provider number or numbers and the effective date thereof. Notwithstanding Section 100171 of the Health and Safety Code and Section 14123, proceedings after the imposition of sanctions provided for in subdivision (a) shall be in accordance with Section 14043.65.

SEC. 18. Section 14043.34 is added to the Welfare and Institutions Code, to read:

14043.34. (a) As a condition of a pharmacy's participation in the Medi-Cal program, the pharmacy shall have in stock and regularly dispense prescription drugs.

(b) For purposes of this section, ''prescription drugs'' means any drug unsafe for self use by a person, and includes either of the following:

(1) Any drug that bears the legend: ''R_x Only'' or ''Caution: federal law prohibits dispensing without prescription'' or words of similar import.

(2) Any other drug that by federal or state law can be lawfully dispensed by the prescription of a licensed physician and surgeon.

SEC. 19. Section 14043.36 of the Welfare and Institutions Code is amended to read:

14043.36. (a) The department shall not enroll any applicant that has been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of a patient in connection with the delivery of a health care item or service, or in connection with the interference with or obstruction of any investigation into health care related fraud or abuse or that has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years. In addition, the department may deny enrollment to any applicant that, at the time of application, is under investigation by the department or any state, local, or federal government law enforcement agency for fraud or abuse pursuant to Subpart A (commencing with Section 455.12) of Part 455 of Title 42 of the Code of Federal Regulations. The department shall not deny enrollment to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges. If it is discovered that a provider is under investigation by the department or any state, local, or federal government law enforcement agency for fraud or abuse, that provider shall be subject to temporary suspension from the Medi-Cal program, which shall include temporary deactivation of all provider numbers used by the provider to obtain reimbursement from the Medi-Cal program.

(b) The director shall notify in writing the provider of the temporary suspension and deactivation of the provider's Medi-Cal provider number or numbers, which shall take effect 15 days from the date of the notification. Notwithstanding Section 100171 of the Health and Safety Code, proceedings after the imposition of sanctions provided for in subdivision (a) shall be in accordance with Section 14043.65.

SEC. 20. Section 14043.37 of the Welfare and Institutions Code is amended to read:

14043.37. The department may complete a background check on applicants for the purpose of verifying the accuracy of the information provided to the department for purposes of enrolling in the Medi-Cal program and in order to prevent fraud and abuse. The background check may include, but is not limited to, the following:

(a) Onsite inspection prior to enrollment.

(b) Review of business records.

(c) Data searches.

SEC. 21. Section 14043.61 is added to the Welfare and Institutions Code, to read:

14043.61. (a) A provider shall be subject to suspension if claims for payment are submitted under any provider number used by the provider to obtain reimbursement from the Medi-Cal program for the services, goods, supplies, or merchandise provided, directly or indirectly, to a

Medi-Cal beneficiary, by an individual or entity that is suspended, excluded, or otherwise ineligible because of a sanction to receive, directly or indirectly, reimbursement from the Medi-Cal program and the individual or entity is listed on either the Suspended and Ineligible Provider List, published by the department, to identify suspended and otherwise ineligible providers, or any list published by the federal Office of Inspector General regarding the suspension or exclusion of individuals or entities from the federal Medicare and medicaid programs, to identify suspended, excluded, or otherwise ineligible providers.

(b) Notwithstanding Section 100171 of the Health and Safety Code, the imposition of the sanction provided for in subdivision (a) shall be appealable in accordance with Section 14043.65.

SEC. 22. Section 14043.62 is added to the Welfare and Institutions Code, to read:

14043.62. (a) The department shall deactivate, immediately and without prior notice, the provider numbers used by a provider to obtain reimbursement from the Medi-Cal program when warrants or documents mailed to a provider's mailing address or its pay to address, if any, or its service or business address, are returned by the United States Postal Service as not deliverable or when a provider has not submitted a claim for reimbursement from the Medi-Cal program for one year. Prior to taking this action the department shall use due diligence in attempting to contact the provider at its last known telephone number and ascertain if the return by the United States Postal Service is by mistake or shall use due diligence in attempting to contact the provider by telephone or in writing to ascertain whether the provider wishes to continue to participate in the Medi-Cal program. If deactivation pursuant to this section occurs, the provider shall meet the requirements for reapplication as specified in this article or the regulations adopted thereunder.

(b) For purposes of this section:

(1) ''Mailing address'' means the address that the provider has identified to the department in its application for enrollment as the address at which it wishes to receive general program correspondence.

(2) ''Pay to address'' means the address that the provider has identified to the department in its application for enrollment as the address at which it wishes to receive warrants.

(3) ''Service or business address'' means the address that the provider has identified to the department in its application for enrollment as the address at which the provider will provide services to program beneficiaries.

SEC. 23. Section 14043.65 of the Welfare and Institutions Code is amended to read:

14043.65. (a) Notwithstanding any other provision of law, any applicant whose application for enrollment as a provider or whose certification is denied; or any provider who is denied continued enrollment or certification, who has been temporarily suspended, who has had payments withheld, who has had one or more provider numbers used to obtain reimbursement from the Medi-Cal program deactivated pursuant to this article or Section 14107.11, or who has had a civil penalty imposed pursuant to Section 14123.25; or any billing agent, as defined in Section 14040, when the billing agent's registration has been denied pursuant to subdivision (e) of Section 14040.5, may appeal this action by submitting a written appeal, including any supporting evidence, to the director or the director's designee. Where the appeal is of a withholding of payment pursuant to Section 14107.11, the appeal to the director or the director's designee shall be limited to the issue of the reliability of the evidence supporting the withhold and shall not encompass fraud or abuse. The appeal procedure shall not include a formal administrative hearing under the Administrative Procedure Act and shall not result in reactivation of any deactivated provider numbers during appeal. An applicant, provider, or billing agent that files an appeal pursuant to this section shall submit the written appeal along with all pertinent documents and all other relevant evidence to the director or to the director's designee within 60 days of the date of notification of the department's action. The director or the director's designee shall review all of the relevant materials submitted and shall issue a decision within 90 days of the receipt of the appeal. The decision may provide that the action taken should be upheld, continued, or reversed, in whole or in part. The decision of the director or the director's designee shall be final. Any further appeal shall be required to be filed in accordance with Section 1085 of the Code of Civil Procedure.

(b) No applicant whose application for enrollment, as a provider, has been denied pursuant to Section 14043.2, 14043.36, or 14043.4 may reapply for a period of three years from the date the application is denied. Where the provider has appealed the denial, the three-year period shall commence upon the date of final action by the director or the director's designee.

SEC. 24. Section 14043.7 of the Welfare and Institutions Code is amended to read:

14043.7. (a) The department may make unannounced visits to any applicant or to any provider for the purpose of determining whether enrollment, continued enrollment, or certification is warranted, or as necessary for the administration of the Medi-Cal program. At the time of the visit, the applicant or provider shall be required to demonstrate an established place of business appropriate and adequate for the services

billed or claimed to the Medi-Cal program, as relevant to his or her scope of practice, as indicated by, but not limited to, the following:

(1) Being open and available to the general public.

(2) Having regularly established and posted business hours.

(3) Having adequate supplies in stock on the premises.

(4) Meeting all local laws and ordinances regarding business licensing and operations.

(5) Having the necessary equipment and facilities to carry out day-to-day business for his or her practice.

(b) An unannounced visit pursuant to subdivision (a) shall be prohibited with respect to clinics licensed under Section 1204 of the Health and Safety Code, clinics exempt from licensure under Section 1206 of the Health and Safety Code, health facilities licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, and natural persons licensed or certified under Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, unless the department has reason to believe that the provider will defraud or abuse the Medi-Cal program or lacks the organizational or administrative capacity to provide services under the program.

(c) Failure to remediate significant discrepancies in information provided to the department by the provider or significant discrepancies that are discovered as a result of an announced or unannounced visit to a provider, for purposes of enrollment, continued enrollment, or certification pursuant to subdivision (a) shall make the provider subject to temporary suspension from the Medi-Cal program, which shall include temporary deactivation of all provider numbers used by the provider to obtain reimbursement from the Medi-Cal program. The director shall notify in writing the provider of the temporary suspension and deactivation of provider numbers, which shall take effect 15 days from the date of the notification. Notwithstanding Section 100171 of the Health and Safety Code, proceedings after the imposition of sanctions in this paragraph shall be in accordance with Section 14043.65.

SEC. 25. Section 14043.75 of the Welfare and Institutions Code is amended to read:

14043.75. The director may, in consultation with interested parties, by regulation, adopt, readopt, repeal, or amend additional measures to prevent or curtail fraud and abuse. Regulations adopted, readopted, repealed, or amended pursuant to this section shall be deemed emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). These emergency regulations shall be deemed necessary for the immediate preservation of the public peace,

health and safety, or general welfare. Emergency regulations adopted, amended, or repealed 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.

SEC. 26. Section 14100.75 of the Welfare and Institutions Code is amended to read:

14100.75. (a) (1) Each provider and each applicant, as defined in Section 14043.1, when applying for enrollment and continued enrollment, shall provide, to the department, a bond, or other security satisfactory to the department, of an amount determined by the department, pursuant to regulations adopted by the department.

(2) The department, in determining the amount of bond or security required by paragraph (1), shall base the determination on the level of estimated billings, and shall not be less than twenty-five thousand dollars ($25,000).

(3) This subdivision shall become operative only if the director executes a declaration, that shall be retained by the director, stating that the surety bonds described in this paragraph are commercially offered throughout the state and by more than one vendor.

(b) (1) After three years of continuous operation as a provider, a Medi-Cal provider may apply to the department for an exemption from the requirements of subdivision (a).

(2) The department shall adopt regulations establishing conditions for the approval or denial of applications for exemption pursuant to paragraph (1).

(c) The department shall establish a mechanism to track rates of participation among providers who are subject to the requirement of subdivision (a) to determine if the requirement is a deterrent to Medi-Cal program participation among provider applicants.

(d) Subdivisions (a) and (b) shall not apply to natural persons licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or to any clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, or exempt from licensure under subdivision (c) of Section 1206 of the Health and Safety Code, to any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or to any provider that is operated by a city, county, school district, county office of education, or state special school, or any professional corporation practicing pursuant to the Moscone-Knox Professional Corporation Act provided for pursuant to Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code.

(e) Nothing in this section shall relieve an applicant or provider of durable medical equipment or home health agency services from complying with subdivisions (a) and (b) of Sections 14100.8 and 14100.9, as applicable.

SEC. 27. Section 14107 of the Welfare and Institutions Code is amended to read:

14107. (a) Any person, including any applicant or provider as defined in Section 14043.1, or billing agent, as defined in Section 14040.1, who engages in any of the activities identified in subdivision (b) is punishable by imprisonment as set forth in subdivisions (c) , (d), and (e), by a fine not exceeding three times the amount of the fraud or improper reimbursement or value of the scheme or artifice, or by both this fine and imprisonment.

(b) The following activities are subject to subdivision (a):

(1) A person, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200).

(2) A person knowingly submits false information for the purpose of obtaining greater compensation than that to which he or she is legally entitled for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200).

(3) A person knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200).

(4) A person knowingly and willfully executes, or attempts to execute, a scheme or artifice to do either of the following:

(A) Defraud the Medi-Cal program or any other health care program administered by the department or its agents or contractors.

(B) Obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, the Medi-Cal program or any other health care program administered by the department or its agents or contractors, in connection with the delivery of or payment for health care benefits, services, goods, supplies, or merchandise.

(c) A violation of subdivision (a) is punishable by imprisonment in a county jail, or in the state prison for two, three, or five years.

(d) If the execution of a scheme or artifice to defraud as defined in paragraph (4) of subdivision (b) is committed under circumstances likely to cause or that do cause two or more persons great bodily injury, as defined in Section 12022.7 of the Penal Code, or serious bodily injury, as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, a term of four years, in addition and consecutive to the term of

imprisonment imposed in subdivision (c), shall be imposed for each person who suffers great bodily injury or serious bodily injury.

The additional terms provided in this subdivision shall not be imposed unless the facts showing the circumstances that were likely to cause or that did cause great bodily injury or serious bodily injury to two or more persons are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(e) If the execution of a scheme or artifice to defraud, as defined in paragraph (4) of subdivision (b) results in a death which constitutes a second degree murder, as defined in Section 189 of the Penal Code, the offense shall be punishable, upon conviction, pursuant to subdivision (a) of Section 190 of the Penal Code.

(f) Any person, including an applicant or provider as defined in Section 14043.1, or billing agent, as defined in Section 14040.1, who has engaged in any of the activities subject to fine or imprisonment under this section, shall be subject to the asset forfeiture provisions for criminal profiteering.

(g) Pursuant to Section 923 of the Penal Code, the Attorney General may convene a grand jury to investigate and indict for any of the activities subject to fine, imprisonment, or asset forfeiture under this section.

(h) The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in Section 654 of the Penal Code.

SEC. 28. Section 14107.11 of the Welfare and Institutions Code is amended to read:

14107.11. (a) Upon receipt of reliable evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, of fraud or willful misrepresentation by a provider as defined in Section 14043.1, under the Medi-Cal program or the commencement of a suspension under Section 14123, the department may do any of the following:

(1) Collect any Medi-Cal program overpayment identified through an audit or examination, or any portion thereof from any provider. Notwithstanding Section 100171 of the Health and Safety Code, a provider may appeal the collection of overpayments under this section pursuant to procedures established in Article 5.3 (commencing with Section 14170). Overpayments collected under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings if the findings are against the

provider. Overpayments will be returned to a provider with interest if findings are in favor of the provider.

(2) Withhold payment for any goods, services, supplies, or merchandise, or any portion thereof. The department shall notify the provider within five days of any withholding of payment under this section. The notice shall do all of the following:

(A) State that payments are being withheld in accordance with this subdivision and that the withholding is for a temporary period and will not continue after it is determined that the evidence of fraud or willful misrepresentation is insufficient or when legal proceedings relating to the alleged fraud or willful misrepresentation are complete.

(B) Cite the circumstances under which the withholding of the payments will be terminated.

(C) Specify, when appropriate, the type or types of claims for which payment is being withheld.

(D) Inform the provider of the right to submit written evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, for consideration by the department.

(3) Notwithstanding Section 100171 of the Health and Safety Code, a provider may appeal a withholding of payment pursuant to Section 14043.65. Payments withheld under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings.

(b) The director may, in consultation with interested parties, adopt regulations to implement this section as necessary. These regulations may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) Part 1 of Division 3 of Title 2 of the Government Code) and 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. The director shall transmit these emergency regulations directly to the Secretary of State for filing and the regulations shall become effective immediately upon filing. Upon completion of the formal regulation adoption process and prior to the expiration of the 120-day duration period of emergency regulations, the director shall transmit directly to the Secretary of State the adopted regulations, the rulemaking file, and the certification of compliance as required by subdivision (e) of Section 11346.1 of the Government Code.

(c) For purposes of this section, ''provider'' means any individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, employees, or agents thereof, that provide services, goods, supplies, or merchandise, directly or indirectly, to a

Medi-Cal beneficiary, and that has been enrolled in the Medi-Cal program.

SEC. 29. Section 14123.25 is added to the Welfare and Institutions Code, to read:

14123.25. (a) In lieu of, or in addition to, the imposition of any other sanction available to it, including the sanctions and penalties authorized under Section 14123.2 or 14171.6, and as the ''single state agency'' for California vested with authority to administer the Medi-Cal program, the department shall exercise the authority granted to it in Section 1002.2 of Title 42 of the Code of Federal Regulations, and may also impose the mandatory and permissive exclusions identified in Section 1128 of the federal Social Security Act (42 U.S.C. Sec. 1320a-7), and its implementing regulations, and impose civil penalties identified in Section 1128A of the federal Social Security Act (42 U.S.C. Sec. 1320a-7a), and its implementing regulations, against applicants and providers, as defined in Section 14043.1 or against billing agents, as defined in Section 14040.1. The department may also terminate, or refuse to enter into, a provider agreement authorized under Section 14043.2 with an applicant or provider, as defined in Section 14043.1, upon the grounds specified in Section 1866(b)(2) of the federal Social Security Act (42 U.S.C. Sec. 1395cc(b)(2). Notwithstanding Section 100171 of the Health and Safety Code or any other provision of law, any appeal by an applicant, provider, or billing agent of the imposition of a civil penalty, exclusion, or other sanction pursuant to this subdivision shall be in accordance with Section 14043.65, except that where the action is based upon conviction for any crime involving fraud or abuse of the Medi-Cal, medicaid, or Medicare programs, or exclusion by the federal government from the medicaid or Medicare programs the action shall be automatic and not subject to appeal or hearing.

(b) In addition, the department may impose the intermediate sanctions identified in Section 1846 of the Social Security Act (42 U.S.C. Sec. 1395w-2), and its implementing regulations, against any provider that is a clinical laboratory, as defined in Section 1206 of the Business and Professions Code. The imposition and appeal of this intermediate sanction shall be in accordance with Article 8 (commencing with Section 1065) of Chapter 2 of Division 1 of Title 17 of the California Code of Regulations.

SEC. 30. Section 14124.1 of the Welfare and Institutions Code is amended to read:

14124.1. Each provider, as defined in Section 14043.1, of health care services rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, shall keep and maintain records of each such service rendered, the beneficiary or person to whom rendered, the date the service was

rendered, and such additional information as the department may by regulation require. Records herein required to be kept and maintained shall be retained by the provider for a period of three years from the date the service was rendered.

SEC. 31. Section 14124.2 of the Welfare and Institutions Code is amended to read:

14124.2. (a) (1) During normal working hours, the department may make any examination of the books and records of, and may visit and inspect the premises or facilities of, those identified in paragraphs (2) and (3), that it may deem necessary to carry out the provisions of this chapter or Chapter 8 (commencing with Section 14200) and regulations adopted thereunder, or the law under which the department or its agents or contractors administer any other health care program.

(2) Any applicant or provider, as defined in Section 14043.1, pertaining to services, goods, supplies, or merchandise rendered or supplied, directly or indirectly, or to be rendered or supplied, directly or indirectly, to any beneficiary under this chapter or Chapter 8 (commencing with Section 14200).

(3) Any person or entity that provides services, goods, supplies, or merchandise, directly or indirectly, under, or seeks reimbursement from, any other health care program administered by the department or its agents or contractors.

(b) (1) Applicants, providers, or others receiving or seeking reimbursement under the Medi-Cal program or other health care programs administered by the department or its agents or contractors shall furnish information or copies of records and documentation upon request by the department. Unannounced visits to request this information shall be reserved for those exceptional situations where arrangement of an appointment beforehand is clearly not possible or is clearly inappropriate to the nature of the intended visit. Only those related books and records of each service rendered, the beneficiary to whom rendered, the date, and additional information as the department may by regulation require shall be subject to the requirement of furnishing copies. This information may include records to support and document the recipient's eligibility for services and, to the extent necessary, records to provide proof of the quantity and receipt of the services, and that the services were provided by proper personnel. Providers and others subject to this section shall be reimbursed for reasonable photocopying-related expenses as determined by the department. Failure to comply with the requests for information or records made pursuant to this section shall be grounds for immediate suspension of the provider or others subject to this section under subdivision (b) of Section 14123 or under the other health care programs administered by the department or its agents or contractors.

(2) Any copies furnished pursuant to this section shall be used only to investigate and pursue criminal, civil, or administrative sanctions for Medi-Cal fraud or abuse, including the provision of dental services that are below or less than the standard of acceptable quality as prescribed by subdivision (f) of Section 14123, or fraud or abuse under any other health care program administered by the department or its agents or contractors and the copies shall be destroyed when that purpose has been satisfied. This section shall not be construed to prohibit the referral of investigative findings, including copies of books and records, to the appropriate federal, state, or local licensing, certifying, regulatory, or prosecutorial authority.

(c) For purposes of this section and Section 14124.1, ''provider'' shall be defined as follows:

(1) ''Provider'' shall have the meaning contained in Section 14043.1.

(2) ''Provider'' shall also include any person or entity under contract with the provider, as defined in paragraph (1), to assist in the application process or eligibility determination.

SEC. 32. Section 14170 of the Welfare and Institutions Code is amended to read:

14170. (a) (1) Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by the department. The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later. Moreover the cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

(2) (A) Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

(B) Nothing in this section shall be construed to preclude the department from further review of cost reports and other data for cost reporting periods beginning on January 1, 1998, after the three-year period contained in paragraph (1) of subdivision (a), where after the

three-year period the department discovers information not customarily contained in these cost reports and other data for the fiscal periods in question that indicates the provider may have engaged in practices that have resulted in overreimbursement.

(3) Notwithstanding any other provision of law, nursing facilities and all categories of intermediate care facilities for the developmentally disabled which have received and are receiving funds for salary increases pursuant to Sections 14110.6 and 14110.7 shall maintain payroll and personnel records for examination by auditors from the department and the Labor Commissioner beginning March 1985 until the records have been audited, or until December 31, 1992, whichever occurs first.

(b) Notwithstanding any other provision of law, costs reported for reimbursement purposes relative to Medi-Cal beneficiaries in nursing facilities that are distinct parts of acute care hospitals shall be audited by the department at least annually. The audits may be performed on a sample basis and, when the sample is statistically reliable, as determined by the department, may be used for ratesetting purposes.

SEC. 33. Section 14170.8 of the Welfare and Institutions Code is amended to read:

14170.8. (a) Notwithstanding any other provision of law, every primary supplier of pharmaceuticals, medical equipment, or supplies shall maintain accounting records to demonstrate the manufacture, assembly, purchase, or acquisition and subsequent sale, of any pharmaceuticals, or medical equipment, or supplies to providers, as defined in Section 14043.1. Accounting records shall include, but not be limited to, inventory records, general ledgers, financial statements, purchase and sales journals and invoices, prescription records, bills of lading, and delivery records. For purposes of this section the term ''primary suppliers'' shall mean any manufacturer, principal labeler, assembler, wholesaler, or retailer.

(b) Accounting records maintained pursuant to subdivision (a) shall be subject to audit or examination by the department or its agents. This audit or examination may include, but is not limited to, verification of what was claimed by the provider. These accounting records shall be maintained for three years from the date of sale or the date of service.

(c) This section shall not apply to any clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code or to any manufacturer of prescription drugs registered with the federal Food and Drug Administration in accordance with Section 510 of the Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360).

SEC. 34. Section 14171.6 of the Welfare and Institutions Code is amended to read:

14171.6. (a) (1) Any provider, as defined in paragraph (3), that obtains reimbursement under this chapter to which it is not entitled shall be subject to interest charges or penalties as specified in this section.

(2) When it is established upon audit that the provider has not received reimbursement to which the provider is entitled, the department shall pay the provider interest assessed at the rate, and in the manner, specified in subdivision (g) of Section 14171.

(3) For purposes of this section, ''provider'' means any provider, as defined in Section 14043.1.

(b) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (h) of Section 14171.

(c) (1) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay, in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after receipt of the notice, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified in subdivision (h) of Section 14171.

(3) Providers that wish to preserve appeal rights or to challenge the department's positions regarding appeal issues may claim the costs or services and not be reimbursed therefor if they are identified and presented separately on the cost report.

(d) (1) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay, in addition to that portion of the claim that was improperly claimed, a penalty of 300 percent of the amount improperly claimed, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified by subdivision (h) of Section 14171.

(3) For purposes of this subdivision, a fraudulent claim is a claim upon which the provider has been convicted of fraud upon the Medi-Cal program.

(e) Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(f) Any appeal to any action taken pursuant to subdivision (b), (c), or (d) is subject to the administrative appeals process provided by Section 14171.

(g) As used in this section, ''cost of the audit'' includes actual hourly wages, travel, and incidental expenses at rates allowable by rules

adopted by the State Board of Control and applicable overhead costs that are incurred by employees of the state in administering this chapter with respect to the performance of audits.

(h) This section shall not apply to any clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, clinics exempt from licensure under Section 1206 of the Health and Safety Code, health facilities licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or to any provider that is operated by a city, county, or school district.

SEC. 35. Section 24005 of the Welfare and Institutions Code is amended to read:

24005. (a) This section shall apply to the Family Planning Access Care and Treatment Waiver program identified in subdivision (aa) of Section 14132 and this program.

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

(c) Medi-Cal enrolled providers, as determined by the department, shall be eligible to provide family planning services under the program when these services are within their scope of practice and licensure. Those clinical providers electing to participate in the program and approved by the department shall provide the full scope of family planning education, counseling, and medical services specified for the program, either directly or by referral, consistent with standards of care issued by the department.

(d) The department shall require providers to enter into clinical agreements with the department to ensure compliance with standards and requirements to maintain the fiscal integrity of the program. Provider applicants, providers, and persons with an ownership or control interest, as defined in federal medicaid regulations, shall be required to submit to the department their social security numbers to the full extent allowed under federal law. All state and federal statutes and regulations pertaining to the audit or examination of Medi-Cal providers shall apply to this program.

(e) Clinical provider agreements shall be signed by the provider under penalty of perjury. The department may screen applicants at the initial application and at any reapplication pursuant to requirements developed by the department to determine provider suitability for the program.

(f) The department may complete a background check on clinical provider applicants for the purpose of verifying the accuracy of information provided to the department for purposes of enrolling in the program and in order to prevent fraud and abuse. The background check may include, but not be limited to, unannounced onsite inspection prior

to enrollment, review of business records, and data searches. If discrepancies are found to exist during the preenrollment period, the department may conduct additional inspections prior to enrollment. Failure to remediate significant discrepancies as prescribed by the director may result in denial of the application for enrollment. Providers that do not provide services consistent with the standards of care or that do not comply with the department's rules related to the fiscal integrity of the program may be disenrolled as a provider from the program at the sole discretion of the department.

(g) The department shall not enroll any applicant who, within the previous 10 years:

(1) Has been convicted of any felony or misdemeanor that involves fraud or abuse in any government program, that relates to neglect or abuse of a patient in connection with the delivery of a health care item or service, or that is in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse.

(2) Has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government program.

(h) In addition, the department may deny enrollment to any applicant that, at the time of application, is under investigation by the department or any local, state, or federal government law enforcement agency for fraud or abuse. The department shall not deny enrollment to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges. If it is discovered that a provider is under investigation by the department or any local, state, or federal government law enforcement agency for fraud or abuse, that provider shall be subject to immediate disenrollment from the program.

(i) (1) The program shall disenroll as a program provider any individual who, or any entity that, has a license, certificate, or other approval to provide health care, which is revoked or suspended by a federal, California, or other state's licensing, certification, or other approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate, or approval while a disciplinary hearing on the license, certificate, or approval was pending. The disenrollment shall be effective on the date the license, certificate, or approval is revoked, lost, or surrendered.

(2) A provider shall be subject to disenrollment if claims for payment are submitted under any provider number used by the provider to obtain reimbursement from the program for the services, goods, supplies, or merchandise provided, directly or indirectly, to a program beneficiary, by an individual or entity that has been previously suspended, excluded, or otherwise made ineligible to receive, directly or indirectly,

reimbursement from the program or from the Medi-Cal program and the individual has previously been listed on either the Suspended and Ineligible Provider List, which is published by the department, to identify suspended and otherwise ineligible providers or any list published by the federal Office of the Inspector General regarding the suspension or exclusion of individuals or entities from the federal Medicare and medicaid programs, to identify suspended, excluded, or otherwise ineligible providers.

(3) The department shall deactivate, immediately and without prior notice, the provider numbers used by a provider to obtain reimbursement from the program when warrants or documents mailed to a provider's mailing address, its pay to address, or its service address, if any, are returned by the United States Postal Service as not deliverable or when a provider has not submitted a claim for reimbursement from the program for one year. Prior to taking this action, the department shall use due diligence in attempting to contact the provider at its last known telephone number and to ascertain if the return by the United States Postal Service is by mistake and shall use due diligence in attempting to contact the provider by telephone or in writing to ascertain whether the provider wishes to continue to participate in the Medi-Cal program. If deactivation pursuant to this section occurs, the provider shall meet the requirements for reapplication as specified in regulation.

(4) For purposes of this subdivision:

(A) ''Mailing address'' means the address that the provider has identified to the department in its application for enrollment as the address at which it wishes to receive general program correspondence.

(B) ''Pay to address'' means the address that the provider has identified to the department in its application for enrollment as the address at which it wishes to receive warrants.

(C) ''Service address'' means the address that the provider has identified to the department in its application for enrollment as the address at which the provider will provide services to program beneficiaries.

(j) Subject to Article 4 (commencing with Section 19130) of Chapter 5 of Division 5 of Title 2 of the Government Code, the department may enter into contracts to secure consultant services or information technology including, but not limited to, software, data, or analytical techniques or methodologies for the purpose of fraud or abuse detection and prevention. Contracts under this section shall be exempt from the Public Contract Code.

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

(*l*) Upon receipt of reliable evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, of fraud or willful misrepresentation by a provider under the program or commencement of a suspension under Section 14123, the department may do any of the following:

(1) Collect any State-Only Family Planning program or Family Planning Access Care and Treatment Waiver program overpayment identified through an audit or examination, or any portion thereof from any provider. Notwithstanding Section 100171 of the Health and Safety Code, a provider may appeal the collection of overpayments under this section pursuant to procedures established in Article 5.3 (commencing with Section 14170) of Part 3 of Division 9. Overpayments collected under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings, if the findings are against the provider. Overpayments shall be returned to a provider with interest if findings are in favor of the provider.

(2) Withhold payment for any goods or services, or any portion thereof, from any State-Only Family Planning program or Family Planning Access Care and Treatment Waiver program provider. The department shall notify the provider within five days of any withholding of payment under this section. The notice shall do all of the following:

(A) State that payments are being withheld in accordance with this paragraph and that the withholding is for a temporary period and will not continue after it is determined that the evidence of fraud or willful misrepresentation is insufficient or when legal proceedings relating to the alleged fraud or willful misrepresentation are completed.

(B) Cite the circumstances under which the withholding of the payments will be terminated.

(C) Specify, when appropriate, the type or types of claimed payments being withheld.

(D) Inform the provider of the right to submit written evidence that is evidence that would be admissible under the administrative adjudication provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, for consideration by the department.

(3) Notwithstanding Section 100171 of the Health and Safety Code, a provider may appeal a withholding of payment under this section pursuant to Section 14043.65. Payments withheld under this section shall not be returned to the provider during the pendency of any appeal and may be offset to satisfy audit or appeal findings.

(m) As used in this section:

(1) ''Abuse'' means either of the following:

(A) Practices that are inconsistent with sound fiscal or business practices and result in unnecessary cost to the medicaid program, the Medicare program, the Medi-Cal program, including the Family Planning Access Care and Treatment Waiver program, identified in subdivision (aa) of Section 14132, another state's medicaid program, or the State-Only Family Planning program, or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state.

(B) Practices that are inconsistent with sound medical practices and result in reimbursement, by any of the programs referred to in subparagraph (A) or other health care programs operated, or financed in whole or in part, by the federal government or any state or local agency in this state or any other state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.

(2) ''Fraud'' means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(3) ''Provider'' means any individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents of any partnership, group, association, corporation, institution, or entity, that provides services, goods, supplies, or merchandise, directly or indirectly, to a beneficiary and that has been enrolled in the program.

(4) ''Convicted'' means any of the following:

(A) A judgment of conviction has been entered against an individual or entity by a federal, state, or local court, regardless of whether there is a post-trial motion or an appeal pending or the judgment of conviction or other record relating to the criminal conduct has been expunged or otherwise removed.

(B) A federal, state, or local court has made a finding of guilt against an individual or entity.

(C) A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity.

(D) An individual or entity has entered into participation in a first offender, deferred adjudication, or other program or arrangement where judgment of conviction has been withheld.

(5) ''Professionally recognized standards of health care'' means statewide or national standards of care, whether in writing or not, that professional peers of the individual or entity whose provision of care is an issue, recognize as applying to those peers practicing or providing care within a state. When the United States Department of Health and

Human Services has declared a treatment modality not to be safe and effective, practitioners that employ that treatment modality shall be deemed not to meet professionally recognized standards of health care. This definition shall not be construed to mean that all other treatments meet professionally recognized standards of care.

(6) ''Unnecessary or substandard items or services'' means those that are either of the following:

(A) Substantially in excess of the provider's usual charges or costs for the items or services.

(B) Furnished, or caused to be furnished, to patients, whether or not covered by Medicare, medicaid, or any of the state health care programs to which the definitions of applicant and provider apply, and which are substantially in excess of the patient's needs, or of a quality that fails to meet professionally recognized standards of health care. The department's determination that the items or services furnished were excessive or of unacceptable quality shall be made on the basis of information, including sanction reports, from the following sources:

(i) The professional review organization for the area served by the individual or entity.

(ii) State or local licensing or certification authorities.

(iii) Fiscal agents or contractors, or private insurance companies.

(iv) State or local professional societies.

(v) Any other sources deemed appropriate by the department.

(7) ''Enrolled or enrollment in the program'' means authorized under any and all processes by the department or its agents or contractors to receive, directly or indirectly, reimbursement for the provision of services, goods, supplies, or merchandise to a program beneficiary.

(n) In lieu of, or in addition to, the imposition of any other sanctions available, including the imposition of a civil penalty under Sections 14123.2 or 14171.6, the program may impose on providers any or all of the penalties pursuant to Section 14123.25, in accordance with the provisions of that section. In addition, program providers shall be subject to the penalties contained in Section 14107.

(o) (1) Notwithstanding any other provision of law, every primary supplier of pharmaceuticals, medical equipment, or supplies shall maintain accounting records to demonstrate the manufacture, assembly, purchase, or acquisition and subsequent sale, of any pharmaceuticals, medical equipment, or supplies, to providers. Accounting records shall include, but not be limited to, inventory records, general ledgers, financial statements, purchase and sales journals, and invoices, prescription records, bills of lading, and delivery records.

(2) For purposes of this subdivision, the term ''primary supplier'' means any manufacturer, principal labeler, assembler, wholesaler, or retailer.

(3) Accounting records maintained pursuant to paragraph (1) shall be subject to audit or examination by the department or its agents. The audit or examination may include, but is not limited to, verification of what was claimed by the provider. These accounting records shall be maintained for three years from the date of sale or the date of service.

(p) Each provider of health care services rendered to any program beneficiary shall keep and maintain records of each service rendered, the beneficiary to whom rendered, the date, and such additional information as the department may by regulation require. Records required to be kept and maintained pursuant to this subdivision shall be retained by the provider for a period of three years from the date the service was rendered.

(q) A program provider applicant or a program provider shall furnish information or copies of records and documentation requested by the department. Failure to comply with the department's request shall be grounds for denial of the application or automatic disenrollment of the provider.

(r) A program provider may assign signature authority for transmission of claims to a billing agent subject to Sections 14040, 14040.1, and 14040.5.

(s) Moneys payable or rights existing under this division shall be subject to any claim, lien, or offset of the State of California, and any claim of the United States of America made pursuant to federal statute, but shall not otherwise be subject to enforcement of a money judgment or other legal process, and no transfer or assignment, at law or in equity, of any right of a provider of health care to any payment shall be enforceable against the state, a fiscal intermediary, or carrier.

SEC. 36. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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 323

An act to amend Section 10100.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. It is the intent of the Legislature, by enacting this act, to remedy a situation in which a FAIR Plan policyholder has complied with the requirements for brush removal but is surcharged solely based on brush existing on a neighbor's property that the neighbor refuses to remove. It is the intent of this act, therefore, to shift the cost of noncompliance with brush clearance requirements entirely to the noncompliant neighbor, as long as that neighbor is also covered by the FAIR Plan.

SEC. 2. Section 10100.2 of the Insurance Code is amended to read:

10100.2. (a) (1) Rates for the FAIR Plan shall not be excessive, inadequate, or unfairly discriminatory, and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the plan. If the plan returns premiums to members annually, the rates shall not include any component relating to surplus enhancements.

(2) If the FAIR Plan policy of a property owner would be subject to a brush surcharge solely because of an adjacent property owner's failure to comply with applicable laws, ordinances, and regulations regarding brush clearance requirements, the surcharge shall instead be imposed on the policy of the adjacent property owner if the adjacent property is also insured through the FAIR Plan.

(b) Rates for a policy of earthquake property insurance issued by the association shall be established based on the best available scientific information for assessing the risk of earthquake loss. Factors that the association 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 affecting the risk of earthquake.

(2) The soil type upon which the insured dwelling is built.

(3) Construction type of the insured dwelling.

(4) The presence of earthquake hazard reduction factors as defined in Section 10089.2.

(c) Notwithstanding Section 10097, all information considered by the association in establishing rates shall be public records.

(d) The classification system established by the association for policies of earthquake property insurance shall not be adjusted or tempered in any manner to provide rates lower than are justified for classifications presenting a high risk of loss, or higher than are justified for classifications presenting a low risk of loss.

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CHAPTER 324

An act to amend Sections 1600.5, 1607, and 2972 of, and to add Section 2972.1 to, the Penal Code, relating to mentally disordered offenders.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 1600.5 of the Penal Code is amended to read:

1600.5. For a person committed as a mentally disordered sex offender under former Section 6316 or 6316.2 of the Welfare and Institutions Code, or committed pursuant to Section 1026 or 1026.5, or committed pursuant to Section 2972, who is placed on outpatient status under the provisions of this title, time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment or toward the person's term of extended commitment. Nothing in this section shall be construed to extend the maximum period of parole of a mentally disordered offender.

SEC. 2. Section 1607 of the Penal Code is amended to read:

1607. If the outpatient supervisor is of the opinion that the person has regained competence to stand trial, or is no longer insane, is no longer a mentally disordered offender, or is no longer a mentally disordered sex offender, the community program director shall submit his or her opinion to the medical director of the state hospital, where appropriate, and to the court which shall calendar the case for further proceedings under the provisions of Section 1372, 1026.2, or 2972 of this code or Section 6325 of the Welfare and Institutions Code.

SEC. 3. Section 2972 of the Penal Code is amended to read:

2972. (a) The court shall conduct a hearing on the petition under Section 2970 for continued treatment. The court shall advise the person of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing, however, in order to reduce costs the rules of criminal discovery, as well as civil discovery, shall be applicable.

The standard of proof under this section shall be proof beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been

released, unless the time is waived by the person or unless good cause is shown.

(b) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(c) If the court or jury finds that the patient has a severe mental disorder, that the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and that by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which he or she was being treated at the time the petition was filed, or committed to the State Department of Mental Health if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in Section 2970. Time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment or toward the person's term of extended commitment.

(d) A person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this subdivision, the provisions of Title 15 (commencing with Section 1600) of Part 2, shall apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 shall be that the person cannot be safely and effectively treated on an outpatient basis.

(e) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient's severe mental disorder is not in remission or cannot be kept in remission without treatment, and whether by reason of his or her severe mental disorder, the patient represents a substantial danger of physical harm to others. The recommitment proceeding shall be conducted in accordance with the provisions of this section.

(f) Any commitment under this article places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

(g) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and he or she shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health may adopt regulations to modify those

rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is being held. This subdivision and the regulations adopted pursuant thereto shall become operative on January 1, 1987, except that regulations may be adopted prior to that date.

SEC. 4. Section 2972.1 is added to the Penal Code, to read:

2972.1. (a) Outpatient status for persons committed pursuant to Section 2972 shall be for a period not to exceed one year. Pursuant to Section 1606, at the end of a period of outpatient status approved by the court, the court shall, after actual notice to the prosecutor, the defense attorney, the community program director or a designee, the medical director of the facility that is treating the person, and the person on outpatient status, and after a hearing in court, either discharge the person from commitment under appropriate provisions of law, order the person confined to a treatment facility, or renew its approval of outpatient status.

(b) Prior to the hearing described in subdivision (a), the community program director or a designee shall furnish a report and recommendation to the court, the prosecution, the defense attorney, the medical director of the facility that is treating the person, and the person on outpatient status. If the recommendation is that the person continue on outpatient status or be confined to a treatment facility, the report shall also contain a statement that conforms with requirements of subdivision (c).

(c) (1) Upon receipt of a report prepared pursuant to Section 1606 that recommends confinement or continued outpatient treatment, the court shall direct prior defense counsel, or, if necessary, appoint new defense counsel, to meet and confer with the person who is on outpatient status and explain the recommendation contained therein. Following this meeting, both defense counsel and the person on outpatient status shall sign and return to the court a form which shall read as follows:

"Check One:

"____ I do not believe that I need further treatment and I demand a jury trial to decide this question.

"___ I accept the recommendation that I continue treatment."

(2) The signed form shall be returned to the court at least 10 days prior to the hearing described in subdivision (a). If the person on outpatient status refuses or is unable to sign the form, his or her counsel shall indicate, in writing, that the form and the report prepared pursuant to Section 1606 were explained to the person and the person refused or was unable to sign the form.

(d) If the person on outpatient status either requests a jury trial or fails to waive his or her right to a jury trial, a jury trial meeting all of the requirements of Section 2972 shall be set within 60 days of the initial hearing.

(e) The trier of fact, or the court if trial is waived, shall determine whether or not the requirements of subdivisions (c) and (d) of Section 2972 have been met. The court shall then make an appropriate disposition under subdivision (a) of this section.

(f) The court shall notify the community program director or a designee, the person on outpatient status, and the medical director or person in charge of the facility providing treatment of the person whether or not the person was found suitable for release.

SEC. 5. Nothing in this act shall be construed to extend the maximum period of parole of a mentally disordered offender.

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 325

An act to add Article 6.4 (commencing with Section 124111) to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, relating to child health.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. (a) It is the policy of the State of California to make every effort to detect pediatric congenital ocular abnormalities that lead to premature death, blindness, or vision impairment unless treated soon after birth.

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

(1) Treatable congenital ocular diseases occur frequently and require increased early detection efforts.

(2) Early detection significantly enhances the ability to prevent serious damage from congenital abnormalities of the eye which, left

undetected and untreated, may result in blinding or life-threatening diseases, or both. Examples of such disorders include retinoblastoma, congenital cataracts, and persistent hyperplastic primary vitreous. Other congenital anomalies including colobomas, vascular retinal anomalies, and congenital retinal folds can be treated with patching of the good eye to prevent dense amblyopia if detected early.

(3) Retinoblastoma is a childhood cancer arising in immature retinal cells inside the eye and accounts for approximately 13 percent of all cancers in infants; most children are diagnosed before two and one-half years of age. When retinoblastoma affects both eyes, the average age of diagnosis is 12 months.

(4) Increased emphasis on optimal examination methods, such as dilation of the eye with eye drops, may facilitate detection of the abnormal disease process inside the eye of the newborn. An abnormal screen will facilitate timely referral to an appropriately licensed health care provider acting within his or her scope of practice for diagnosis and to an ophthalmologist for treatment.

(5) Early detection and referral of an abnormal red reflex pupillary screen would allow early diagnosis of congenital cataract or retinoblastoma which, if recognized and treated as soon as possible after birth, could cause little long-term disability.

(6) Early diagnosis and intervention can reduce the number of visually impaired citizens, and reduce the amount of public expenditures for health care, special education, and related services.

SEC. 2. Article 6.4 (commencing with Section 124111) is added to Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, to read:

Article 6.4. Newborn Eye Pathology Screening

124111. (a) The Newborn Eye Pathology Screening Task Force is established and shall advise the State Department of Health Services on the newborn eye pathology screening protocol.

(b) The task force shall be composed of the following 12 members:

(1) The Director of Health Services as a nonvoting ex officio member.

(2) The 11 voting members shall be appointed by the Director of Health Services as follows:

(A) One ophthalmologist with a background in or knowledge of providing services to infants with retinoblastoma.

(B) One pediatric ophthalmologist who sees general pediatric patients and is a designee of the American Association for Pediatric Ophthalmology and Strabismus.

(C) One academic pediatrician with a background in or knowledge of infant eye pathology screening.

(D) One parent representing families with a child with blindness or other ocular abnormalities affecting vision.

(E) One representative from the California Academy of Family Physicians.

(F) One representative recommended by the State Department of Health Services.

(G) One representative from the American Academy of Pediatrics, California District.

(H) One community pediatrician with a background in or experience with the routine instillation of dilating eye drops as part of red reflex screening.

(I) One nurse with a background in or knowledge of the current department program for the instillation of eye drops to prevent conjunctivitis.

(J) One retinal specialist with research experience in detecting the signs of treatable congenital eye disease.

(K) One optometrist with a background in or experience with pupil dilation in infants and red reflex screening for intraocular pathology.

(c) Task force members shall serve without compensation, but shall be reimbursed for necessary travel expenses incurred in the performance of the duties of the task force.

124112. (a) On or before June 30, 2002, the department shall adopt the protocol developed by the American Academy of Pediatrics to optimally detect the presence of treatable causes of blindness in infants by two months of age. If a protocol is not developed on or before June 30, 2002, the department, in consultation with representatives of the Newborn Eye Pathology Task Force, shall establish a protocol to optimally detect the presence of treatable causes of blindness in infants by two months of age on or before January 1, 2003.

(b) If the American Academy of Pediatrics develops a protocol to optimally detect the presence of treatable causes of blindness by two months of age after the adoption of the protocol developed by the department, the department shall conform its protocol to the protocol adopted by the American Academy of Pediatrics.

(c) Nothing in the section shall be construed to supersede the clinical judgment of the licensed health care provider.

(d) Any screening examination recommended pursuant to subdivision (a) shall not be conducted on a newborn if a parent or guardian of the newborn objects to the examination on the grounds that the examination conflicts with the religious beliefs or practices of the parent or guardian.

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CHAPTER 326

An act to add Section 111246 to the Health and Safety Code, relating to environmental health.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

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

(a) Lindane is the working ingredient in over 2 million prescriptions issued each year for biocidal shampoos and creams meant to control head lice and scabies.

(b) The prescriptions containing Lindane are prescribed to young children, pregnant women, and nursing mothers.

(c) The main source of Lindane in sewers is from the treatment of head lice and the treatment of scabies, which is a mite that can live in human skin.

(d) A single treatment of Lindane to kill head lice or scabies pollutes 6 million gallons of water.

(e) According to the State Department of Health Services, Lindane has been shown to damage the liver, kidney, nervous systems, and immune systems of laboratory animals such as rats, mice, and dogs when exposed to high levels during their lifetime.

(f) The State Department of Health Services stated that Lindane is less effective and has more potential toxicity than the easily available alternatives; therefore, there is no reason to continue prescribing Lindane for the control of head lice in California.

SEC. 2. Section 111246 is added to the Health and Safety Code, to read:

111246. Commencing January 1, 2002, any product used for the treatment of lice or scabies in human beings that contains the pesticide Lindane shall not be used or sold in the state.

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.

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CHAPTER 327

An act to repeal and add Article 2 (commencing with Section 106750) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code, relating to environmental health.

[Approved by Governor September 5, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Article 2 (commencing with Section 106750) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code is repealed.

SEC. 2. Article 2 (commencing with Section 106750) is added to Chapter 4 of Part 1 of Division 104 of the Health and Safety Code, to read:

106750. This article establishes requirements for radon certification.

106770. ''Department'' means the State Department of Health Services.

106775. ''Radon services'' means any of the following:

(a) The analysis of radon detectors or testing for radon or radon decay products by a commercial laboratory.

(b) The performance of radon or radon progeny measurements in buildings by an individual person who provides professional or expert advice on radon and radon progeny measurements, radon entry routes, and other radon related activities.

(c) The repair or alteration by an individual person of a building or design for the purpose, in whole or in part, of reducing the concentration of radon in the indoor atmosphere.

106780. (a) Except as provided in Section 106790, no person may provide radon services for the general pubic, or represent or advertise that he or she may provide radon services unless that person meets both of the following requirements:

(1) Successfully completes the National Radon Measurement Proficiency Program of the National Environmental Health Association or the National Radon Safety Board Certified Radon Professional Program.

(2) Submits to the department a copy of certificate demonstrating successful completion of either program.

(b) Persons certified to provide radon services shall successfully complete and submit to the department proof of completion of the National Radon Measurement Proficiency Program of the National Environmental Health Association or the National Radon Safety Board

Certified Radon Professional Program every two years after initial certification.

(c) A copy of the current certificate of completion shall be submitted to the department at least 14 days prior to conducting radon services within the state.

106785. The department shall maintain a list of persons that have submitted proof of certification by either the National Environmental Health Association or the National Radon Safety Board Certified Radon Professional Program. This list shall be made available to the public.

106790. This article does not apply to a person in any of the following circumstances:

(a) The person is testing for, or mitigating radon in a building that the person owns or occupies.

(b) The person is designing or conducting mitigation measures to prevent against radon infiltration or accumulation in new construction.

(c) The person is performing scientific research regarding testing or mitigation of radon, but only if the person informs the owner and the occupant of the building of all of the following:

(1) That the person is not certified by the National Radon Measurement Proficiency Program of the National Environmental Health Association or the National Radon Safety Board Certified Radon Professional Program.

(2) Any test results are neither certified nor valid for legal purposes.

(3) Any mitigation methods suggested or used are experimental.

106795. It is unlawful for an individual to provide radon services in violation of this article. A violation of this article is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000).

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 328

An act to add Section 332.1 to the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2000. Filed with
Secretary of State September 7, 2000.]

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

SECTION 1. (a) The Legislature finds and declares that the San Diego Gas and Electric Company is the only electrical corporation in this state whose customers are no longer protected by a statutorily imposed rate freeze, and that those customers alone are therefore subject to severe economic hardship because of unprecedented bill volatility and extraordinarily high rate levels.

(b) It is the intent of the Legislature to protect against a simple deferral of payment by future customers by establishing incentives for prudent procurement by the San Diego Gas and Electric Company, encouraging appropriate action by federal and state oversight agencies, and offsetting any undercollection in the balancing accounts with revenues associated with sales of energy from utility owned or managed generation assets.

SEC. 2. Section 332.1 is added to the Public Utilities Code, to read:

332.1. (a) (1) It is the intent of the Legislature to enact Item 1 (revised) on the commission's August 21, 2000 agenda, entitled ''Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas and Electric Company,'' as modified below.

(2) It is also the intent of the Legislature that to the extent that the Federal Energy Regulatory Commission orders refunds to electrical corporations pursuant to their findings, the commission shall ensure that any refunds are returned to customers.

(b) The commission shall establish a ceiling of six and five-tenth cents ($.065) per kilowatt hour on the energy component of electric bills for residential, small commercial, and street lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to

perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level specified in subdivision (b), consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, ''small commercial customer'' includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are ''general acute care hospitals,'' as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, and all accounts on Rate Schedule AL-TOU under 100 kilowatts.

(f) The commission shall establish a program for large commercial, agricultural, and industrial customers who buy energy from the San Diego Gas and Electric Company, on a voluntary basis, at the election of the customer, to set the energy component of their bills at six and five-tenths cents ($.065) per kilowatt hour with a true-up after a year.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, for a period beginning at the latest on June 1, 2000. If the commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers including, but not limited to, refunds.

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.

SEC. 4. The Legislature finds and declares that, due to the special circumstances surrounding the San Diego Gas and Electric Company, a general statute cannot be made applicable within the meaning of Section

16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

SEC. 5. Sections 1 to 4, inclusive, of this act shall become operative only if AB 970 of the 1999–2000 Regular Session is enacted and becomes operative on or before January 1, 2001.

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 timely relief to ratepayers in the service territory of the San Diego Gas and Electric Company suffering from a rapid increase in retail energy rates due to spiraling wholesale energy costs, thereby endangering the public peace, health, and safety, it is necessary that this act take immediate effect.

CHAPTER 329

An act to add and repeal Section 12078 of the Government Code, to add and repeal Section 42301.14 of the Health and Safety Code, to add Chapter 6.5 (commencing with Section 25550) to Division 15 of, and to repeal Sections 25550, 25552, and 25555 of, the Public Resources Code, and to amend Section 372 of, and to add Section 399.15 to, the Public Utilities Code, relating to energy resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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 Energy Security and Reliability Act of 2000.

SEC. 2. The Legislature finds and declares as follows:

(a) In recent years there has been significant growth in the demand for electricity in the state due to factors such as growth in population and economic activities that rely on electrical generation.

(b) In the past decade, efforts to construct and operate new, environmentally superior and efficient generation facilities and to promote cost-effective energy conservation and demand-side management have seriously lagged.

(c) As a result, California faces potentially serious electricity shortages over the next two years, which necessitates immediate action by the state.

(d) The purpose of this act is to provide a balanced response to the electricity problems facing the state that will result in significant new investments in new, environmentally superior electricity generation, while also making significant new investments in conservation and demand-side management programs in order to meet the energy needs of the state for the next several years.

(e) It is further the intent of this act to provide assistance to persons proposing to construct electrical generation facilities without in any manner compromising environmental protection.

SEC. 3. Section 12078 is added to the Government Code, to read:

12078. (a) There is hereby established the Governor's Clean Energy GREEN TEAM, which shall consist of a chairperson and not more than 15 members as follows:

(1) The Chair of the Electricity Oversight Board.

(2) The President of the California Public Utilities Commission.

(3) The Chair of the Energy Resources Conservation and Development Commission.

(4) The Secretary for Environmental Protection.

(5) The Secretary of the Resources Agency.

(6) The Secretary of the Trade and Commerce Agency.

(7) The director of the Governor's Office of Planning and Research.

(8) Representatives from the United States Environmental Protection Agency, the United States Fish and Wildlife Service, and other affected federal agencies appointed by the Governor.

(9) Representatives of local and regional agencies, including, but not limited to, air pollution control districts and air quality management districts appointed by the Governor.

(b) Within 90 days of the effective date of this section, the GREEN TEAM shall do all of the following:

(1) Compile and, upon request, make available to persons proposing to construct powerplants, all available guidance documents and other information on the environmental effects associated with powerplants proposed to be certified pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code, and including state-of-the-art and best available control technologies and air emissions offsets that could be used to mitigate those environmental effects.

(2) Upon request, provide assistance to persons proposing to construct powerplants in obtaining essential inputs, including, but not limited to, natural gas supply, emission offsets, and necessary water supply.

(3) Upon request, provide assistance to persons proposing to construct powerplants pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code in identifying the

environmental effects of such powerplants and any actions the person may take to mitigate those effects.

(4) Upon request, provide assistance to persons proposing to construct powerplants in working with local governments in ensuring that local permits, land use authorizations, and other approvals made at the local level are undertaken in the most expeditious manner feasible without compromising public participation or environmental protection.

(5) Develop recommendations for low- or zero-interest financing programs for renewable energy, including distributed renewable energy for state and nonprofit corporations.

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 4. Section 42301.14 is added to the Health and Safety Code, to read:

42301.14. (a) To the extent permitted by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and notwithstanding Section 65950 of the Government Code, a district may issue a temporary, expedited, consolidated permit, as provided by Sections 42300.1 and 42301.3, for a powerplant within 60 days after the date of certification of an environmental impact report, within 30 days after the adoption of a negative declaration, or within 30 days after the date of a determination that the project is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, if all of the following conditions are met:

(1) The powerplant will emit less than 5 parts per million of oxides of nitrogen averaged over a three-hour period.

(2) The powerplant will operate exclusively under the terms of a contract entered into with the Independent System Operator and approved by the Electricity Oversight Board established pursuant to Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(3) The owner or operator of the powerplant shall demonstrate that the powerplant, on average, will displace electrical generation that produces greater air emissions in the same air basin or in a basin that causes air pollution transport into that basin.

(4) The powerplant will be interconnected to the grid in a manner that the Public Utilities Commission, in consultation with the Electricity Oversight Board, has determined will allow the powerplant to provide service to a geographical area of the state that is urgently in need of generation in order to provide reliable electric service. However, nothing in this paragraph affects the authority of the Energy Resources Conservation and Development Commission over powerplants

pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

(5) The powerplant will be operated at a location that has the necessary fueling and electrical transmission and distribution infrastructure for its operation.

(6) The owner or operator of the powerplant enters into a binding and enforceable agreement with the district, and where applicable, with the Energy Resources Conservation and Development Commission, which demonstrates either of the following:

(A) That the powerplant will cease to operate and the permit will terminate within three years.

(B) That the powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle powerplant that uses best available control technology and offsets, as determined at the time the combined-cycle plant is constructed, and that complies with all other applicable laws and regulations.

(7) Where applicable, the owner or operator of the powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the district based upon the actual emissions from the powerplant, to the district for expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5, to mitigate the emissions from the plant.

(8) It is the intent of the Legislature in this section to encourage the expedited siting of cleaner generating units to address peaking power needs. It is further the intent of the Legislature to require local air quality management districts and air pollution control districts to recognize the critical need for these facilities and the short life span of these facilities in exercising their discretionary authority to apply more restrictive air quality regulations than would otherwise be required by law.

(b) This section may be utilized for the purpose of expediting the siting of electrical generating facilities pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 5. Chapter 6.5 (commencing with Section 25550) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 6.5. EXPEDITED SITING OF ELECTRICAL GENERATION

25550. (a) Notwithstanding subdivision (a) of Section 25522, and Section 25540.6 the commission shall establish a process to issue its final certification for any thermal powerplant and related facilities

within six months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and will comply with all applicable standards, ordinances, or laws. For purposes of this section, filing has the same meaning as in Section 25522.

(b) Thermal powerplants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed thermal powerplant and related facilities but for the exclusive jurisdiction of the commission and the information required for permitting by each federal agency that has jurisdiction over the proposed thermal powerplant and related facilities.

(c) After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, or law. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, all local, regional, and state agencies that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) Thermal powerplants and related facilities that demonstrate superior environmental or efficiency performance shall receive priority in review.

(f) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown

that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) This section shall not apply to an application filed with the commission on or before August 1, 1999.

(i) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, 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.

(j) This section shall remain in effect 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.

25552. (a) The commission shall implement a procedure, consistent with Division 13 (commencing with Section 21000) and with the federal Clean Air Act (42 U.S.C.A. Sec. 7401 et seq.), for an expedited decision on simple cycle thermal powerplants and related facilities that can be put into service on or before August 1, 2001, including a procedure for considering amendments to a pending application if the amendments specify a change from a combined cycle thermal powerplant and related facilities to a simple cycle thermal powerplant and related facilities.

(b) The procedure shall include all of the following:

(1) A requirement that, within 15 days of receiving the application or amendment to a pending application, the commission shall determine whether the application is complete.

(2) A requirement that, within 25 days of determining that an application is complete, the commission shall determine whether the application qualifies for an expedited decision pursuant to this section. If an application qualifies for an expedited decision pursuant to this section, the commission shall provide the notice required by Section 21092.

(c) The commission shall issue its final decision on an application, including an amendment to a pending application, within four months from the date on which it deems the application or amendment complete, or at any later time mutually agreed upon by the commission and the applicant, provided that the thermal powerplant and related facilities remain likely to be in service before or during August 2001.

(d) The commission shall issue a decision granting a license to a simple cycle thermal powerplant and related facilities pursuant to this section if the commission finds all of the following:

(1) The thermal powerplant is not a major stationary source or a modification to a major stationary source, as defined by the federal Clean Air Act, and will be equipped with best available control technology, in consultation with the appropriate air pollution control district or air quality management district and the State Air Resources Board.

(2) The thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(3) With respect to a project for a thermal powerplant and related facilities reviewed under the process established by this section, the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the thermal powerplant.

(e) In order to qualify for the procedure established by this section, an application or an amendment to a pending application shall be complete by October 31, 2000, satisfy the requirements of Section 25523, and include a description of the proposed conditions of certification that will do all of the following:

(1) Assure that the thermal powerplant and related facilities will not have a significant adverse effect on the environment as a result of construction or operation.

(2) Assure protection of public health and safety.

(3) Result in compliance with all applicable federal, state, and local laws, ordinances, and standards.

(4) A reasonable demonstration that the thermal powerplant and related facilities, if licensed on the expedited schedule provided by this section, will be in service before August 1, 2001.

(5) A binding and enforceable agreement with the commission, that demonstrates either of the following:

(A) That the thermal powerplant will cease to operate and the permit will terminate within three years.

(B) That the thermal powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle thermal powerplant that uses best available control technology and obtains necessary offsets, as determined at the time the combined-cycle thermal powerplant is constructed, and that complies with all other applicable laws, ordinances, and standards.

(6) Where applicable, that the thermal powerplant will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the air pollution control district or air quality management district based upon the actual emissions from the thermal powerplant, to the district for

expenditure by the district pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code, to mitigate the emissions from the plant. To the extent consistent with federal law and regulation, any offsets required pursuant to this paragraph shall be based upon a 1:1 ratio, unless, after consultation with the applicable air pollution control district or air quality management district, the commission finds that a different ratio should be required.

(7) Nothing in this section shall affect the ability of an applicant that receives approval to install simple cycle thermal powerplants and related facilities as an amendment to a pending application to proceed with the original application for a combined cycle thermal powerplant or related facilities.

(f) 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 except that the binding commitments in paragraph (5) of subdivision (e) shall remain in effect after that date.

25553. Notwithstanding any other provision of law, on or before 120 days after the effective date of this section or on the earliest feasible date thereafter, the commission shall take both of the following actions:

(a) Update its assessment in trends in energy consumption pursuant to Section 25216 in order to provide the Governor, the Legislature, and the public with accurate information on the status of electricity supply, demand, and conservation in the state and to recommend measures that could be undertaken to ensure adequate supply and energy conservation in the state.

(b) Adopt and implement updated and cost-effective standards pursuant to Section 25402 to ensure the maximum feasible reductions in wasteful, uneconomic, inefficient, or unnecessary consumption of electricity.

25555. (a) In consultation with the Public Utilities Commission, the commission shall implement the peak electricity demand reduction grant programs listed in paragraphs (1), (2), and (3). The commission's implementation of these programs shall be consistent with guidelines established pursuant to subdivision (b). The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that factors other than those adopted by the commission were applied in making the award. Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission. Awards made pursuant to this section are not subject to any repayment requirements of Chapter 7.4 (commencing with Section 25645). The

peak electricity demand programs the commission shall implement pursuant to this section shall include, but not be limited to, the following:

(1) For San Francisco Bay Area and San Diego region electricity customers, the peak electricity demand program shall include both of the following:

(A) Incentives for price responsive heating, ventilation, air conditioning, and lighting systems.

(B) Incentives for cool communities.

(2) For statewide electricity customers, the peak electricity demand program shall include all of the following:

(A) Incentives for price responsive heating, ventilation, air conditioning, and lighting systems.

(B) Incentives for cool communities.

(C) Incentives for energy efficiency improvements for public universities and other state facilities.

(D) Funding for state building peak reduction measures.

(E) Incentives for light-emitting diode traffic signals.

(F) Incentives for water and wastewater treatment pump and related equipment retrofits.

(3) Renewable energy development, except hydroelectric development, for both onsite distributed energy development and for commercial scale projects through which awards may be made by the commission to reduce the cost of financing those projects.

(b) In consultation with the Public Utilities Commission, the commission shall establish guidelines for the administration of this section. The guidelines shall enable the commission to allocate funds between the programs as it determines necessary to lower electricity system peak demand. The guidelines adopted pursuant to this subdivision are not regulations subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The commission may choose from among one or more business entities capable of supplying or providing goods or services that meet a specified need of the commission in carrying out the responsibilities for programs included in this section. The commission may select an entity on a sole source basis if the cost to the state will be reasonable and the commission determines that it is in the state's best interest.

(d) The commission shall contract with one or more business entities for evaluation of the effectiveness of the programs implemented pursuant to subdivision (a). The contracting provisions specified in subdivision (c) shall apply to these contracts.

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

(1) ''Low-rise buildings'' means one and two story buildings.

(2) ''Price responsive heating, ventilation, air conditioning, and lighting systems'' means a program that provides incentives for the installation of equipment that will automatically lower the electricity consumption of these systems when the price of electricity reaches specific thresholds.

(3) ''Light-emitting diode traffic signals'' means a program to provide incentives to encourage the replacement of incandescent traffic signal lamps with light-emitting diodes.

(4) ''Cool communities'' means a program to reduce ''heat island'' effects in urban areas and thereby conserve energy and reduce peak demand.

(5) ''Water and wastewater treatment pump retrofit'' means a program to provide incentives to encourage the retrofit and replacement of water and wastewater treatment pumps and equipment and installation of energy control systems in order to reduce their electricity consumption during periods of peak electricity system demand.

(f) The commission may expend no more than 3 percent of the amount appropriated to implement this section, for purposes of administering this section.

(g) This section 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.

SEC. 6. Section 372 of the Public Utilities Code is amended to read:

372. (a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

(1) To load served onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of such a facility to the extent that such increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, ''affiliated'' means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under

common on control with another specified entity. ''Control'' means either of the following:

(A) The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

(B) Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial or equitable interest.

(2) To load served by onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially operational on or before January 1, 1998, or by increases in the capacity of such a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties.

(3) To load served by existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided such emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

(4) After June 30, 2000, to any load served onsite or under an over the fence arrangement by any nonmobile self-cogeneration or cogeneration facility.

(b) Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

(1) Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

(2) Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

(A) Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

(B) Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

(C) Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred, provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

(3) Subject to the fire wall described in subdivision (e) of Section 367 provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed prior to December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

(c) The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

(1) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to load served onsite by a nonmobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

(2) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to any load served under over the fence arrangements entered into after December 20, 1995, between unaffiliated entities.

(d) For the purposes of this subdivision, all onsite or over the fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

(e) To facilitate the development of new microcogeneration applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

(f) To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

(1) The commission and the Electricity Oversight Board shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission and the Electricity Oversight Board find that any policy or action of the Independent System Operator unreasonably

discourages, the connection of existing self-generationor cogeneration or new self-generation or cogeneration to the grid, the commission and the Electricity Oversight Board shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

SEC. 7. Section 399.15 is added to the Public Utilities Code, to read:

399.15. Notwithstanding any other provision of law, within 180 days of the effective date of this section, the commission, in consultation with the Independent System Operator, shall take all of the following actions, and shall include the reasonable costs involved in taking those actions in the distribution revenue requirements of utilities regulated by the commission, as appropriate:

(a) (1) Identify and undertake those actions necessary to reduce or remove constraints on the state's existing electrical transmission and distribution system, including, but not limited to, reconductoring of transmission lines, the addition of capacitors to increase voltage, the reinforcement of existing transmission capacity, and the installation of new transformer banks. The commission shall, in consultation with the Independent System Operator, give first priority to those geographical regions where congestion reduces or impedes electrical transmission and supply.

(2) Consistent with the existing statutory authority of the commission, the commission shall afford electrical corporations a reasonable opportunity to fully recover costs it determines are reasonable and prudent to plan, finance, construct, operate, and maintain any facilities under its jurisdiction required by this section.

(b) In consultation with the State Energy Resources Conservation and Development Commission, adopt energy conservation demand-side management and other initiatives in order to reduce demand for electricity and reduce load during peak demand periods. Those initiatives shall include, but not be limited to, all of the following:

(1) Expansion and acceleration of residential and commercial weatherization programs.

(2) Expansion and acceleration of programs to inspect and improve the operating efficiency of heating, ventilation, and air-conditioning equipment in new and existing buildings, to ensure that these systems achieve the maximum feasible cost-effective energy efficiency.

(3) Expansion and acceleration of programs to improve energy efficiency in new buildings, in order to achieve the maximum feasible reductions in uneconomic energy and peak electricity consumption.

(4) Incentives to equip commercial buildings with the capacity to automatically shut down or dim nonessential lighting and incrementally raise thermostats during peak electricity demand period.

(5) Evaluation of installing local infrastructure to link temperature setback thermostats to real-time price signals.

(6) Incentives for load control and distributed generation to be paid for enhancing reliability.

(7) Differential incentives for renewable or super clean distributed generation resources.

(8) Reevaluation of all efficiency cost-effectiveness tests in light of increases in wholesale electricity costs and of natural gas costs to explicitly include the system value of reduced load on reducing market clearing prices and volatility.

(c) In consultation with the Energy Resources Conservation and Development Commission, adopt and implement a residential, commercial, and industrial peak reduction program that encourages electric customers to reduce electricity consumption during peak power periods.

SEC. 8. The sum of fifty seven million five hundred thousand dollars ($57,500,000) is hereby appropriated from the General Fund to the State Controller for the following purposes:

(a) Five million two hundred thousand dollars ($5,200,000) to fund temporary staff resources, including, but not limited to, limited term positions, not to exceed four years, at the Energy Resources Conservation and Development Commission, the agencies, boards, and departments within the California Environmental Protection Agency, and the Resources Agency, with jurisdiction over electrical powerplant siting and conservation and demand side management programs, for the exclusive purpose of implementing programs pursuant to this act.

(1) Prior to the expenditure of funds pursuant to this subdivision, the commission shall prepare and submit an expenditure plan to the Governor and the Legislature that specifies those agencies and positions for which those funds will be expended.

(2) It is the intent of the Legislature that these funds for staff resources be expended exclusively to implement programs that achieve the maximum feasible cost-effective energy conservation and efficiency while providing the necessary staff resources to expedite siting of electrical powerplants that meet the criteria established pursuant to the act adding this section.

(b) Two million three hundred thousand dollars ($2,300,000) to the Public Utilities Commission, to fund temporary staff resources, including limited term positions not to exceed four years, and to implement the programs established pursuant to this act.

(c) Fifty million dollars ($50,000,000) to the Energy Resources Conservation and Development Commission, to implement cost-effective energy conservation and demand-side management programs established pursuant to Section 25555 of the Public Resources

Code, as enacted by this act. The commission shall prioritize conservation and demand-side management programs funded pursuant to this subdivision to ensure that those programs that achieve the most immediate and cost-effective energy savings are undertaken as a first priority.

SEC. 9. Nothing in this act shall, in any way, apply to a pending application for the certification of the Metcalf Energy Center, which was filed with the State Energy Resources Conservation and Development Commission by Calpine and Bechtel under Docket No. (99-AFC-3).

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the shortage of electric generation capacity to meet the needs of the people of this state and in order to limit further impacts of this shortage on the public health, safety, and welfare, it is necessary that this act take effect immediately.

CHAPTER 330

An act to amend Section 89928 of, and to add Article 1.5 (commencing with Section 89305) to Chapter 3 of Part 55 of, the Education Code, relating to the California State University.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Article 1.5 (commencing with Section 89305) is added to Chapter 3 of Part 55 of the Education Code, to read:

Article 1.5. Gloria Romero Open Meetings Act of 2000

89305. This article shall be known, and may be cited, as the Gloria Romero Open Meetings Act of 2000.

89305.1. (a) A legislative body of a student body organization shall conduct its business in public meetings. All meetings of the legislative body shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body, except as otherwise provided in this article.

(b) (1) As used in this article:

(A) ''Legislative body'' means any or all of the following:

(i) The governing body of any entity formed or operating pursuant to Section 89300.

(ii) The governing body of any statewide student organization that represents either the students of the California State University or the governing bodies of the student body organizations of the campuses of the California State University, or both.

(iii) A commission, committee, board, subboard, or other body, whether permanent or temporary, created by charter, resolution, or formal action of a legislative body described in clause (i) or (ii). However, an advisory committee is not a legislative body, except that a standing committee of a legislative body, irrespective of its composition, that has a continuing subject matter jurisdiction, or a meeting schedule established by charter, resolution, or formal action of a legislative body is a legislative body for purposes of this article.

(B) ''Meeting'' includes any congregation of a majority of the membership of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body to which it pertains. ''Meeting'' does not include, and nothing in this section imposes the requirements of this article upon, any of the following:

(i) Individual contacts or conversations between a member of a legislative body and any other person.

(ii) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to higher education of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as a part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the legislative body. Nothing in this clause is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(iii) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body or entity created or formed by the legislative body, provided that a majority of the members do not discuss among themselves, other than as a part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body.

(iv) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body.

(2) For the purposes of this section, ''teleconference'' means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(c) (1) Notwithstanding any other provision of law, the legislative body may use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 89306 at each teleconference location.

(d) Nothing in this section shall prohibit a student body organization from providing the public with additional teleconference locations.

(e) No legislative body shall take action by secret ballot, whether preliminary or final.

89305.4. As used in this article, ''action taken'' means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, report, resolution, order, or recommendation.

89305.5. (a) Each legislative body shall annually establish, by resolution, bylaws, or whatever other rule is required for the conduct of business by that body, the time and locations for holding regular meetings.

(b) (1) At least 72 hours before a regular meeting, the legislative body, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and

shall be posted in a location that is freely accessible to members of the public.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that a member of a legislative body, or a member of his or her staff, may briefly respond to statements made or questions posed by a person exercising his or her public testimony rights under Section 89306. In addition, on his or her own initiative or in response to questions posed by the public, a member of a legislative body, or a member of his or her staff, may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to the rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(c) Notwithstanding subdivision (b), the legislative body may take action on items of business that do not appear on the posted agenda, but are publicly identified under any of the following conditions:

(1) Upon a determination, pursuant to Section 89306.5, by the membership of the legislative body that an emergency situation exists.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the legislative body subsequent to the agenda being posted as specified in subdivision (b).

(3) The item was posted pursuant to subdivision (b) for a prior meeting of the legislative body occurring not more than five calendar days prior to the present meeting.

89305.7. Any person may request that a copy of the agenda, or a copy of all the documents that constitute the agenda packet, of any meeting of a legislative body be mailed to that person. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 89305.5 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and shall be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, and that fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute

grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

89306. (a) (1) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item affecting higher education at the campus or statewide level, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (c) of Section 89305.5.

(2) Notwithstanding paragraph (1), the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the respective legislative body at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed, as determined by the legislative body, since the committee heard the item.

(3) Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) A legislative body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not necessarily limited to, regulations limiting the amount of time allocated for public testimony on a particular issue and for each individual speaker.

(c) A legislative body shall not prohibit public criticism of anything related to the student body organization, the legislative body, or both. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

89306.5. (a) A special meeting may be called at any time by the presiding officer of a legislative body, or by a majority of the membership of the legislative body, by providing written notice to each member of the legislative body, and to each local newspaper of general circulation and radio or television station that has requested notice of special meetings at least 24 hours prior to the meeting. The written notice shall specify the time and place of the meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. Written notice may be dispensed with as to any member who, at or prior to the time the meeting convenes, provides the clerk or the secretary of the legislative body with a waiver of written notice. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

(b) The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

(c) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of subdivision (b), or both.

(d) (1) For purposes of this section, ''emergency situation'' means either of the following:

(A) Work stoppage or other activity that severely impairs public health, safety, or both, as determined by a majority of the membership of the legislative body.

(B) Crippling disaster that severely impairs public health, safety, or both, as determined by a majority of the membership of the legislative body.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to subdivision (a) shall be notified by the presiding officer of the legislative body, or his or her designee, one hour prior to the emergency meeting by telephone. If necessary, the presiding officer or designee shall use all of the telephone numbers provided in the most recent request of that newspaper or station for notification of special meetings to notify the newspaper or radio of the special meeting.

(3) If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(e) Notwithstanding subdivision (c) of Section 89307, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

(f) All special meeting requirements prescribed in subdivision (a) shall be applicable to a meeting called pursuant to subdivision (c), with the exception of the 24-hour notice requirement.

(g) The legislative body shall post in a public place, as soon after the meeting as possible and for a minimum of 10 days, the minutes of a meeting called pursuant to subdivision (c), a list of persons who the presiding officer of the legislative body, or designee, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting.

89307. (a) Any legislative body may hold a closed session under any of the following circumstances:

(1) A closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the student body organization to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. Prior to the closed session, the legislative body shall hold an open and public session in which it identifies its negotiators, the real property or real properties that the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

(2) For purposes of this subdivision:

(A) A negotiator may be a member of the legislative body.

(B) ''Lease'' includes renewal or renegotiation of a lease.

(b) (1) Based on advice of its legal counsel, holding a closed session to confer with, or receive advice from, its legal counsel regarding a liability claim or pending litigation when discussion in open session concerning the matter would prejudice the position of the student body organization in the litigation.

(2) For purposes of this subdivision, all applications of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article.

(3) For purposes of this subdivision, ''litigation'' means any adjudicatory proceeding, including, but not limited to, eminent domain, court proceeding, or a proceeding of an administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(4) For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) Litigation, to which the student body organization is a party, has been initiated formally.

(B) A point has been reached where, in the opinion of the legislative body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the student body organization.

(C) Based on existing facts and circumstances, the legislative body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (B).

(D) Based on existing facts and circumstances, the legislative body has decided to initiate, or is deciding whether to initiate, litigation.

(5) For purposes of subparagraphs (B), (C), and (D) of paragraph (4), ''existing facts and circumstances'' shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the student body organization, but which the organization believes are not

yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not necessarily limited to, an accident, disaster, incident, or transactional occurrence, that might result in litigation against the student body organization and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code) or some other written communication from a potential plaintiff threatening litigation.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body, so long as the official or employee of the student body organization receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(6) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(7) Prior to holding a closed session pursuant to this section, the legislative body shall state on the agenda or publicly announce and identify the provision of this section that authorizes the closed session. If the session is closed pursuant to paragraph (1), the legislative body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the legislative body states that to do so would jeopardize the ability of the student body organization to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(8) For purposes of this subdivision, a student body organization shall be considered to be a ''party'' or to have a ''significant exposure to litigation'' if an officer or employee of the student body organization is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope

of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

(c) (1) Nothing contained in this section shall be construed to prevent a legislative body from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee of the student body organization or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) A legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term ''employee'' shall include an officer or an independent contractor who functions as an officer or an employee of the student body organization, but shall not include any elected official, member of a legislative body, or other independent contractor. Closed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

(d) (1) A legislative body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(A) Approval of an agreement concluding real property negotiations pursuant to subdivision (a) shall be reported after the agreement is final, as follows:

(i) If its own approval renders the agreement final, the legislative body board or subboard shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with the other party to the negotiations, the legislative body shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the legislative body of its approval.

(B) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation, as the result of a consultation under subdivision (b) shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the ability of the student body organization to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(C) Approval given to its legal counsel of a settlement of pending litigation, as defined in subdivision (b), at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(i) If a legislative body accepts a settlement offer signed by the opposing party, the legislative body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(ii) If final approval rests with some other party to the litigation or with the court, then, as soon as the settlement becomes final, and upon inquiry by any person, the legislative body shall disclose the fact of that approval and identify the substance of the agreement.

(D) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of an employee of the employee organization in closed session pursuant to subdivision (c) shall be reported at the public meeting during which the closed session is held. Any report required by this subparagraph shall identify the title of the employee's position. Notwithstanding the general requirement of this subparagraph, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(E) Approval of an agreement concluding labor negotiations with represented employees pursuant to subdivision (e) shall be reported after the agreement is final and has been accepted or ratified by the other party.

The report shall identify the item approved and the other party or parties to the negotiation.

(2) Reports that are required to be made pursuant to this subdivision may be made orally or in writing. A legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 89306.5, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body, or his or her designee, orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(3) The documentation referred to in paragraph (2) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(4) Nothing in this subdivision shall be construed to require that a legislative body approve actions not otherwise subject to the approval of that legislative body.

(5) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this subdivision.

(e) (1) Notwithstanding any other provision of law, a legislative body may hold closed sessions with the designated representative of the student body organization regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. However, prior to the closed session, the legislative body shall hold an open and public session in which it identifies its designated representatives.

(2) (A) Closed sessions of a legislative body, as permitted in this subdivision, shall be for the purpose of reviewing its position and instructing the designated representative of the student body organization.

(B) Closed sessions, as permitted in this subdivision, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

(C) Closed sessions with the designated representative of the student body organization regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of the available funds and funding priorities of the student body organization, but only insofar as these discussions relate to providing instructions to the designated representative of the student body organization.

(D) Closed sessions held pursuant to this subdivision shall not include final action on the proposed compensation of one or more unrepresented employees.

(E) For the purposes enumerated in this subdivision, a legislative body may also meet with a state conciliator who has intervened in the proceedings.

(3) For the purposes of this subdivision, the term ''employee'' includes an officer or an independent contractor who functions as an officer or an employee of the student body organization, but shall not include any elected official, member of a legislative body, or other independent contractors.

(f) (1) Prior to holding any closed session, the legislative body shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this subdivision shall require or authorize a disclosure of information prohibited by state or federal law.

(2) After any closed session, the legislative body shall reconvene into open session prior to adjournment, and shall make any disclosures required by subdivision (d) of action taken in the closed session.

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

89307.1. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of that meeting unfeasible, and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in that session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

89307.2. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every legislative body as defined in Section 89305.1.

(b) No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

89307.4. Each member of a legislative body who attends a meeting of that legislative body where an action is taken in violation of any provision of this article, with knowledge that the meeting is in violation of this article, is guilty of a misdemeanor.

SEC. 2. Section 89928 of the Education Code is amended to read:

89928. This article is not applicable to either of the following:

(a) Any entity formed or operating pursuant to Section 89300.

(b) The governing board of any statewide student organization that represents the students of the California State University.

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 331

An act to amend Sections 8869.80 and 8869.84 of the Government Code, relating to state government.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 8869.80 of the Government Code is amended to read:

8869.80. The Legislature hereby finds and declares all of the following:

(a) The Tax Reform Act of 1986 (Public Law 99-514) establishes a unified volume ceiling on the aggregate amount of private activity bonds that can be issued in each state. The unified volume ceiling is the product of seventy-five dollars ($75) multiplied by the state population in 1987 and fifty dollars ($50) multiplied by the state population in each succeeding calendar year.

(b) The federal act requires each state to allocate its volume ceiling according to a specified formula unless a different procedure is established by Governor's proclamation or state legislation.

(c) Therefore, it is necessary to designate a state agency and create an allocation system to administer the state unified volume ceiling.

(d) A substantial public benefit is served by promoting housing for lower income families and individuals.

(e) A substantial public benefit is served by preserving and rehabilitating existing governmental assisted housing for lower income families and individuals.

(f) A substantial public benefit is served by providing federal tax credits or reduced interest rate mortgages to assist teachers, principals, vice principals, and assistant principals who are willing to serve in low performing schools to purchase a home.

SEC. 2. Section 8869.84 of the Government Code is amended to read:

8869.84. (a) The committee shall, as soon as is practicable after the start of each calendar year, determine and announce the state ceiling for the calendar year.

(b) The entire state ceiling for each calendar year is hereby allocated to the committee to further allocate to state and local agencies as provided in this chapter.

(c) The committee shall prepare application forms and announce procedures for receipt and review of applications from state and local agencies desiring to issue private activity bonds.

(d) The committee may at any time, before or after granting any allocations in any calendar year to any state agencies or local agencies, announce priorities or reservations of any part of the state ceiling not theretofore allocated either for certain categories of bonds or categories of issuers.

(e) The committee may require any issuer making an application to the committee or MBTCAC for allocation of a portion of the state ceiling to make a deposit, as determined by the committee, of up to 1 percent of the portion requested. If an allocation is not given, the deposit shall be returned. If an allocation is given, the deposit shall be kept (in proportion to the amount of allocation given) until bonds are issued. Upon that issuance, the deposit shall be returned to the issuer in an amount equal to the product of (1) the amount of the deposit retained

times (2) the ratio between the amount of bonds issued divided by the amount of allocation granted. If no bonds are issued prior to the expiration of the allocation, the deposit shall be kept, unless the committee determines there is good cause to return all or part of the deposit. Any portion of a deposit kept shall be deposited in the fund.

(f) The committee may transfer part of the state ceiling to the MBTCAC, to be used for qualified mortgage bonds and exempt facility bonds, as those terms are used in the Internal Revenue Code, for qualified residential rental projects, as those terms are used in the Internal Revenue Code, (together referred to as ''housing bonds''), with directions and conditions pursuant to which MBTCAC may allocate those amounts to issuers of housing bonds at both the state and local level. In carrying out these functions, MBTCAC shall act solely as directed or authorized by the committee. If the committee makes the transfer to MBTCAC authorized by this subdivision, the references in Sections 8869.85, 8869.86, 8869.87, and 8869.88 to the ''committee'' shall, for purposes of any housing bonds, be deemed to mean MBTCAC.

(g) (1) The committee may establish the Extra Credit Teacher Home Purchase Program to provide federal mortgage credit certificates and reduced interest rate loans funded by mortgage revenue bonds to eligible teachers, principals, vice principals, and assistant principals who agree to teach or provide administration in a low performing school. For purposes of this program, a low performing school is a state K-12 public school that is ranked in the bottom 30 percent of all schools based on the most recent Academic Performance Index. The committee may make reservations of a portion of future calendar year state ceiling limits for up to five future calendar years for that program. The committee may also make future allocations of the state ceiling for up to five years for any issuer under that program. Any future allocation made by the committee shall constitute an allocation of the state ceiling for a future year specified by the committee and shall be deemed to have been made on the first day of the future year so specified.

(2) The committee may condition allocations under the Extra Credit Teacher Home Purchase Program on any terms and conditions that the committee deems necessary or appropriate, including, but not limited to, the execution of a contract between the teacher, principal, vice principal, or assistant principal and the issuer whereby the teacher, principal, vice principal, or assistant principal agrees to comply with the terms and conditions of the program. The contract may include, among other things, an agreement by the teacher, principal, vice principal, or assistant principal to teach or provide administration in a low performing school for a minimum number of years, and provisions for enforcing the contract that the committee deems necessary or appropriate.

(3) In the event a teacher, principal, vice principal, or assistant principal does not fulfill the requirements of a contract entered into pursuant to paragraph (2), the issuer of the mortgage credit certificate or mortgage revenue bond may recover as an assessment from the teacher, principal, or assistant principal a monetary amount equal to the lesser of (A) one-half of the teacher's, principal's, vice principal's, or assistant principal's net proceeds from the sale of the related residence or (B) the amount of monetary benefit conferred on the teacher, principal, vice principal, or assistant principal as a result of the federal mortgage credit certificate or reduced interest rate loan funded by a mortgage revenue bond, offset by the amount of any federal recapture, as defined by Section 143(m) of the Internal Revenue Code. The assessment may be secured by a lien against the residence, which shall decline in amount over the term of the contract as the teacher, principal, vice principal, or assistant principal fulfills the term of the contract, and which shall be collected at the time of sale of the residence. Any assessment collected pursuant to this paragraph shall be used for the issuer's costs in administering the Extra Credit Teacher Home Purchase Program. The issuers shall report annually to the committee the total amount of any assessments collected pursuant to this paragraph and how those assessments were used by the issuer.

(4) If the committee establishes the Extra Credit Teacher Home Purchase Program pursuant to this subdivision, the committee shall report annually to the Legislature the results of the program, including all of the following:

(A) The amount of state ceiling limits allocated to or reserved for the program.

(B) The agencies to which state ceiling limits were issued.

(C) The number of loans or mortgage credit certificates issued to teachers, principals, vice principals, and assistant principals.

(D) The schools at which recipients of assistance are employed, aggregated by decile in which the schools rank on the Academic Performance Index and by the percentage of uncredentialed teachers employed at the schools.

(5) The committee shall not make any reservations of future calendar year state ceiling limits or future allocations of the state ceiling pursuant to this subdivision on or after January 1, 2004, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date. However, reservations and allocations made prior to that date shall remain valid.

CHAPTER 332

An act relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. (a) Notwithstanding Section 54902, 54902.1, or 54903 of the Government Code, the noncontiguous reorganization completed by the City of Santa Maria in December 1999 pursuant to Sections 56110 and 56111 of the Government Code shall be effective for assessment and taxation purposes for the 2000–01 fiscal year, provided that the statement and map or plat required with respect to that reorganization by Section 54900 of the Government Code were filed with the county assessor and the State Board of Equalization on or before December 31, 1999.

(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. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique procedural difficulties and administrative complications and requirements faced by the City of Santa Maria in completing a noncontiguous reorganization in 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:

In order that the noncontiguous reorganization completed by the City of Santa Maria in December 1999 shall be fully effective, it is necessary that this act take effect immediately.

CHAPTER 333

An act to amend Section 50052.5 of the Government Code, relating to escheat.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Section 50052.5 of the Government Code is amended to read:

50052.5. (a) Notwithstanding Section 50052, the treasurer may release to the depositor of the unclaimed money, their heir, beneficiary, or duly appointed representative, unclaimed money if claimed prior to the date the money becomes the property of the local agency upon submitting proof satisfactory to the treasurer, unless the unclaimed money is deposited pursuant to Section 7663 of the Probate Code.

(b) Notwithstanding Section 50052, the treasurer may release unclaimed money deposited with the county treasurer pursuant to Section 7663 of the Probate Code, to any adult blood relative of either the decedent or the decedent's predeceased spouse.

(c) Notwithstanding Section 50052, the treasurer may release unclaimed money deposited with the county treasurer pursuant to Section 7663 of the Probate Code to the parent who has legal and physical custody of a minor who is a blood relative of either the decedent or the decedent's predeceased spouse without the need to appoint a legal guardian for the minor as follows:

(1) If the value of the unclaimed money deposited with the county treasurer is five thousand dollars ($5,000) or less, the treasurer may release the money according to Section 3401 of the Probate Code.

(2) If the value of the unclaimed money deposited with the county treasurer is sixty thousand dollars ($60,000) or less, and the money is not released under paragraph (1), the unclaimed money may be released by the treasurer to the parent who shall, after payment of any costs incurred in making the claim, hold the money in trust, to be used only for the care, maintenance, and education of the minor, and the parent shall be liable therefor to the minor under the fiduciary laws of this state. The money held in trust shall be released to the minor when the minor reaches the age of majority.

(d) The claim shall be presented to the county treasurer in affidavit form and signed under penalty of perjury. Notwithstanding Section 13101 of the Probate Code, the claimant, to be entitled to the entire escheated estate, needs only to establish with documentary proof the existence of a blood relationship to either the decedent or of the predeceased spouse, if any, and the documentary proof, if regular on its face, need not be certified. Notwithstanding Section 13101 of the Probate Code, the claimant shall not be required to declare that no other person has an equal or superior claim to the escheated estate.

The county treasurer may rely in good faith on the sworn statements made in the claim and shall have no duty to inquire into the truth or credibility of evidence submitted.

In paying out the escheated estate, the county treasurer shall be held harmless to all. Payment shall act as total acquittance and shall completely discharge the county treasurer from any liability.

If the county treasurer rejects any claim made hereunder, the claimant may take his or her grievance to the Superior Court of the county holding the escheated estate.

Any claim paid hereunder shall be paid without interest.

CHAPTER 334

An act to add and repeal Article 3.5 (commencing with Section 8028) of Chapter 13 of Division 3 of the Business and Professions Code, relating to shorthand reporting.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. Article 3.5 (commencing with Section 8028) is added to Chapter 13 of Division 3 of the Business and Professions Code, to read:

Article 3.5. Shorthand Reporting Entities Complaint Evaluation and Report to the Legislature

8028. (a) For the purposes of determining the necessity for the board to register shorthand reporting entities and subject those entities to its discipline and oversight, the board shall, until July 1, 2002, be authorized to examine, evaluate, and investigate complaints against shorthand reporting entities. Nothing in this subdivision shall be construed to grant the board any authority to discipline or sanction shorthand reporting entities that is not otherwise permitted by law.

(b) For purposes of this article, a ''shorthand reporting entity'' is an entity or person that holds itself out as a deposition agency, offers a booking or billing service for certified shorthand reporters, or in any manner whatsoever acts as an intermediary for a person, entity, or organization that employs, hires, or engages the services of any person licensed as a certified shorthand reporter. This article does not apply to any department or agency of the state that employs hearing reporters.

(c) The board may examine, evaluate, and investigate complaints pursuant to subdivision (a) beginning January 1, 2001, and continuing until no later than July 1, 2002.

8028.2. Based on the information gathered pursuant to Section 8028, the board shall, on or before July 1, 2002, submit a report to the Legislature, including recommendations on the necessity for the board to register shorthand reporting entities. If the report recommends the registration of shorthand reporting entities, the report shall include:

(a) A description of the problem that establishing the new registration requirement would address, including the specific evidence of the necessity for the state to address the problem.

(b) The reasons this proposed registration requirement was selected to address this problem, including the full range of alternatives considered and the reason each of these other alternatives was not selected.

(c) The specific public benefit or harm that would result from the establishment of the proposed registration requirements, the specific manner in which the registration requirements would achieve this public benefit, and the specific standards of performance that shall be used in reviewing the subsequent operation of the shorthand reporting entities.

(d) The specific source or sources of revenue and funding the board will utilize to regulate the newly registered entities in order to achieve its mandate.

8028.4. This article shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2004, deletes or extends that date.

CHAPTER 335

An act relating to the Los Angeles Unified School District, and making an appropriation therefor.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 7, 2000.]

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

SECTION 1. (a) The Superintendent of Public Instruction shall enter into a contract with an independent contractor for the purpose of conducting a study to determine the feasibility of reorganizing the Los Angeles Unified School District by removing from that district the schools in the southeast area of the district, including those schools located in Bell, Southgate, Cudahy, Maywood, Huntington Park, Vernon, and the unincorporated areas of Florence/Graham and Walnut Park. This study shall assess the potential benefits and disadvantages that would result from such a reorganization of the district. The

superintendent shall provide his or her findings to the Legislature on or before January 1, 2002.

(b) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purposes of this section.

CHAPTER 336

An act to amend Sections 9884.8 and 9884.9 of the Business and Professions Code, relating to motor vehicle replacement parts.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 9884.8 of the Business and Professions Code is amended to read:

9884.8. All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

SEC. 2. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original

estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

_____

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service which, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part.

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 337

An act to add and repeal Section 21655.16 of the Vehicle Code, relating to highways.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 21655.16 is added to the Vehicle Code, to read:

21655.16. (a) Notwithstanding any other provision of law, no high-occupancy vehicle lane may be established on State Highway Route 14 between the City of Santa Clarita and the City of Palmdale unless the lane is established as a high-occupancy vehicle lane only during the hours of heavy commuter traffic, as determined by the Department of Transportation.

(b) Any existing high-occupancy vehicle lane located as described in subdivision (a) shall be modified as necessary to conform with subdivision (a).

(c) The Legislative Analyst shall report to the Legislature on or before March 31, 2002, on the impact to traffic by limiting the use of high-occupancy vehicle lanes during the hours of heavy commuter traffic as provided in subdivision (a).

(d) This section shall become inoperative on June 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 338

An act to amend Sections 6027.5 and 6029 of the Food and Agricultural Code, relating to pest control, and making an appropriation therefor.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 6027.5 of the Food and Agricultural Code is amended to read:

6027.5. During the calendar year, each commissioner shall pay to the secretary a fee not to exceed fifty cents ($0.50) per pound of vertebrate pest control material sold, distributed, or applied by the county for vertebrate pest control purposes. No assessment shall be imposed on the sale or on the distribution of vertebrate pest control material by a county agricultural commissioner to another commissioner. Vertebrate pest control material registered by the secretary may only be sold or distributed by a county agricultural commissioner or as authorized by the secretary.

The secretary may set a different level of assessment in the amount necessary to provide revenue for the vertebrate pest control research projects carried out pursuant to this article only if the secretary, at a minimum, has consulted with the Vertebrate Pest Control Research Advisory Committee. The new level of assessment may only commence at the beginning of the subsequent calendar year. However, the assessment shall not exceed one dollar ($1) per pound of vertebrate control material sold, distributed, or applied by the county for vertebrate pest control purposes. To assist the advisory committee in making its recommendations, the department shall submit a progress report to the members of the advisory committee at least 30 days prior to each meeting of the advisory committee. The report shall include, but is not limited to, data on research that has been, or is proposed to be, conducted and statements regarding the necessity for that research. This section does not preclude the department from preparing and distributing additional reports that may be requested by the advisory committee.

SEC. 2. Section 6029 of the Food and Agricultural Code is amended to read:

6029. This article shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

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 339

An act to amend Sections 53601, 53601.2, 53635, and 53635.2 of the Government Code, relating to local agency investments.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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 180 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 270 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 53601.2 of the Government Code is amended to read:

53601.2. Notwithstanding subdivision (g) of Section 53601, the board of supervisors of a county may invest in 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 have total assets in excess of five hundred million dollars ($500,000,000) and 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 270 days' maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 40 percent of the agency's surplus money that may be invested pursuant to this section. No more than 10 percent of the agency's surplus money that may be

invested pursuant to this section may be invested in the outstanding paper of any single issuing corporation.

SEC. 3. 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 180 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 270 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. 4. Section 53635.2 of the Government Code is amended to read:

53635.2. Notwithstanding subdivision (g) of Section 53635, the board of supervisors of a county may invest in 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 have total assets in excess of five hundred million dollars ($500,000,000) and 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 270 days' maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 40 percent of the agency's surplus money that may be invested pursuant to this section. No more than 10 percent of the agency's surplus money that may be invested pursuant to this section may be invested in the outstanding paper of any single issuing corporation.

CHAPTER 340

An act to amend and repeal Sections 217, 217.2, 217.4, and 217.6 of, and to repeal Section 217.8 of, the Streets and Highways Code, relating to highways.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 217 of the Streets and Highways Code is amended to read:

217. For purposes of this article, the following terms have the following meanings:

(a) ''Design-sequencing'' is a method of contracting that enables the sequencing of design activities to permit each construction phase to commence when design for that phase is complete, instead of requiring design for the entire project to be completed before commencing construction.

(b) A ''design-sequencing contract'' is a contract between the department and a contractor that requires the department to prepare a design and permits construction of a project to commence upon completion of design for a construction phase.

(c) ''Design'' is a plan completed to a level of 30 percent.

(d) 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. Section 217.2 of the Streets and Highways Code is amended to read:

217.2. (a) Notwithstanding Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code, except Section 10128 of that code, and Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, the department may conduct a pilot program to let design-sequencing contracts for the design and construction of no more than 12 transportation projects, to be selected by the director. For the purpose of this article, these projects shall be deemed public works.

(b) In selecting projects for the pilot program authorized under subdivision (a), the director shall attempt to balance geographical areas among test projects as well as pursue diversity in the types of projects undertaken.

(c) To the extent available, the department shall seek to incorporate existing knowledge and experience on design-sequencing contracts in carrying out its responsibilities under subdivision (a).

(d) 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. 3. Section 217.4 of the Streets and Highways Code is amended to read:

217.4. (a) Not later than July 1 of each year for which the design-sequencing contracts are underway, the department shall prepare a status report on its contracting methods, procedures, costs, and

delivery schedules. Upon completion of all design-sequencing contracts, notwithstanding Section 7550.5 of the Government Code, the department shall establish a peer review committee to prepare a report for submittal to the Legislature that describes and evaluates the outcome of the contracts provided for in this article, stating the positive and negative aspects of using design-sequencing as a contracting method.

(b) 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. Section 217.6 of the Streets and Highways Code is amended to read:

217.6. Design-sequencing contracts shall be awarded in accordance with all of the following:

(a) The department shall advertise design-sequencing projects by special public notice to contractors.

(b) Contractors shall be required to provide prequalification information establishing appropriate licensure and successful past experience with the proposed work.

(c) 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 217.8 of the Streets and Highways Code is repealed.

CHAPTER 341

An act to amend Sections 422 and 424 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. The Legislature finds and declares that the amendments made by this act to Section 424 of the Public Utilities Code are declarative of existing law.

SEC. 2. Section 422 of the Public Utilities Code is amended to read:

422. The commission shall establish the fee pursuant to Section 421 with the approval of the Department of Finance and in accordance with all of the following:

(a) In its annual budget request, the commission shall specify, at a minimum, both of the following:

(1) The amount of its budget to be financed by the fee.

(2) The dollar allocation of the amount of its budget to be financed by the fee by each class of carrier and related business subject to the fee. Each class of carrier and related business subject to this article shall pay fees sufficient to support the commission's regulatory activities for the class from which the fee is collected and to establish an appropriate reserve.

(b) The commission may establish different and distinct methods of assessing fees for each class of carrier and related business, if the revenues collected are consistent with paragraph (2) of subdivision (a).

(c) (1) Within each class of carrier and related business subject to the fee, the commission shall allocate, among the members of the class, the amount of the commission's budget to be financed by the fee based on the ratio that each member's gross intrastate revenues bears to the total gross intrastate revenues of the class, except for railroad corporations, whose fees shall be allocated within that class in accordance with subdivision (g).

(2) However, in the case of passenger vehicle operators, the commission may assess fees on a basis other than revenue, including, but not limited to, on a per vehicle basis, in an amount sufficient to support the regulatory activities of the commission for the passenger vehicle operators class from which the fee is collected, and to establish an appropriate reserve.

(d) Any carrier or related business which is a member of more than one class of carrier or related business shall be subject to the fee for each class of which it is a member.

(e) For every carrier and related business having annual gross intrastate revenues of one hundred thousand dollars ($100,000) or less, or for every railroad corporation having annual gross intrastate revenues of ten million dollars ($10,000,000) or less, the commission shall annually establish uniform fees, which shall be not less than a minimum annual fee, to be paid by each carrier and related business and by each railroad corporation, if the revenues collected are consistent with paragraph (2) of subdivision (a). Every carrier and related business and railroad corporation paying fees pursuant to this subdivision shall show proof of eligibility at the time of payment in a form the commission may specify.

(f) The commission shall annually establish a uniform fee, which shall be not less than a minimum annual fee, to be paid by every commercial air operator and for-hire vessel operator, if the revenues collected are consistent with paragraph (2) of subdivision (a).

(g) The commission shall establish the initial fee amount to be paid by railroad corporations subject to this section, and the regulations for the assessment and collection of the fee, no later than January 31, 1992. The commission shall collect the initial fee from railroad corporations

beginning on February 1, 1992, and shall disburse the amounts collected as directed in Section 309.7, as added by Assembly Bill 684 of the 1991–92 Regular Session, and Section 421.

(h) The commission shall establish regulations for allocating the proportionate share of the fee established pursuant to paragraph (2) of subdivision (a) to be paid by the rail corporations within that class. The regulations may utilize gross intrastate revenues; track mileage within the state; terminals located within the state; loaded car miles traveled within the state; fuel consumption; or any other measure deemed by the commission to be appropriate in allocating the fee among railroad corporations. On or before January 15, 1992, railroad corporations as a group may submit a proposed plan of allocation to the commission, which the commission shall consider in establishing the regulations.

SEC. 3. Section 424 of the Public Utilities Code is amended to read:

424. As used in this article:

(a) ''Class'' means a group of carriers or related businesses as specified by the commission for purposes of establishing the fees pursuant to this article. The commission shall create separate classes for the following: passenger vehicle operators, pipeline corporations, vessel operators, railroad corporations, and commercial air operators. Nothing in this section restricts the commission from establishing other carrier classes or from establishing other classes within the existing classes listed in this section, including classes based on the kinds of vehicles used.

(b) ''Gross intrastate revenue'' includes all compensation for the transportation or storage of property or the transportation of persons when both the origin and destination of the transportation or the performance of the service is within this state, and shall not include compensation for the transportation of persons or property in interstate or foreign commerce or the transportation of vehicles by ferries. ''Gross intrastate revenue,'' as determined pursuant to this article, shall apply only for purposes of determining the fees required by this chapter and shall not necessarily constitute gross operating revenue for any other purpose.

(c) ''Fee'' means that monetary amount determined in accordance with this article.

CHAPTER 342

An act to add Section 19616.51 to the Business and Professions Code, relating to horse racing, and making an appropriation therefor.

[Approved by Governor September 6, 2000. Filed with
Secretary of State September 8, 2000.]

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

SECTION 1. Section 19616.51 is added to the Business and Professions Code, to read:

19616.51. Notwithstanding any other provision of law, if the total amount paid to the state by racing associations and fairs pursuant to this chapter is less than forty million dollars ($40,000,000) in any calendar year, beginning January 1, 2001, and thereafter, all associations and fairs that conducted live racing during the year of shortfall shall remit to the state, on a pro rata basis according to the amount handled in-state by each association or fair, the amount necessary to bring the total amount paid to the state to forty million dollars ($40,000,000). The amounts due under this section, if any, shall be paid from the amount available for commissions, purses, and breeder awards, and shall be paid to the board prior to March 1 of the year following the year of the shortfall.

CHAPTER 343

An act to amend Section 8574.21 of the Government Code, to amend Sections 901, 25110.10, 25111, 25111.1, 25112, 25123.3, 25123.5, 25141.5, 25143.2, 25143.13, 25149, 25150, 25160, 25163, 25179.6, 25186.1, 25199.6, 25199.10, 25201.6, 25201.15, 25244.15, 25244.19, 25244.20, 25420, 41805.5, 41982, and 41983 of, and to add Section 25250.27 to, the Health and Safety Code, to amend Sections 3460, 3470, 30420, 43308, and 44103 of the Public Resources Code, and to amend Section 13273 of the Water Code, relating to environmental hazards.

[Approved by Governor September 6, 2000. Filed with
Secretary of State September 8, 2000.]

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

SECTION 1. Section 8574.21 of the Government Code is amended to read:

8574.21. (a) The Office of Emergency Services shall develop the curriculum to be used in classes that meet the program requirements and shall adopt standards and procedures for training instructors at the California Specialized Training Institute.

(b) The curriculum for the training and education program established pursuant to this article shall include all of the following aspects of hazardous substance incident response actions:

(1) First responder training.

(2) On-scene manager training.

(3) Hazardous substance incident response training for management personnel.

(4) Hazardous materials specialist training that equals or exceeds the standards of the National Fire Protection Association.

(5) Environmental monitoring.

(6) Hazardous substance release investigations.

(7) Hazardous substance incident response activities at ports.

(c) The Office of Emergency Services shall establish a curriculum development advisory committee, which shall consist of a representative from each of the following agencies or organizations:

(1) The Office of Emergency Services.

(2) The Office of the State Fire Marshal.

(3) The Department of Toxic Substances Control.

(4) The Department of Fish and Game.

(5) The State Water Resources Control Board.

(6) The Department of the California Highway Patrol.

(7) The California Police Chiefs' Association.

(8) The California Fire Chiefs' Association.

(9) The Commission on Police Officer Standards and Training.

(10) The California District Attorneys' Association.

(11) The Department of Forestry and Fire Protection.

(12) The Emergency Medical Services Authority.

(13) The Department of Transportation.

(14) The Environmental Protection Agency.

(15) The Chemical Industry Council of California.

(16) The California Manufacturers Association.

(17) The California Conference of Local Health Officers.

(18) The University of California.

(19) The California State Fireman's Association.

(20) The California State University.

(21) The California Professional Firefighters.

(22) The California Association of Highway Patrolmen.

(23) The Office of Environmental Health Hazard Assessment.

(d) The curriculum development advisory committee shall advise the Office of Emergency Services on the development of course curricula and the standards and procedures specified in subdivision (a). In advising the Office of Emergency Services, the committee shall do the following:

(1) Assist, and cooperate with, representatives of the Board of Governors of the California Community Colleges in developing the course curricula.

(2) Ensure that the curriculum developed pursuant to this section is accredited by the State Board of Fire Services.

(3) Define equivalent training and experience considered as meeting the initial training requirements as specified in subdivision (a) that existing employees might have already received from actual experience or formal education undertaken, and which would qualify as meeting the requirements established pursuant to this article.

(e) The representative from the Office of Emergency Services shall serve as the chairperson of the curriculum development advisory committee.

(f) After the course curricula and standards are established pursuant to subdivision (a), the curriculum development advisory committee shall meet at least once each year to review the program and advise the Office of Emergency Services on any required revisions.

(g) The Office of Emergency Services shall make the curriculum development advisory committee a subcommittee of the Curriculum Advisory Board of the California Specialized Training Institute.

(h) This article does not affect the authority of the State Fire Marshal granted pursuant to Section 13142.4 or 13159 of the Health and Safety Code.

(i) Upon completion of instructor training and certification pursuant to subdivision (e) of Section 8574.20 by any employee of the Department of the California Highway Patrol, the Commissioner of the California Highway Patrol may deem any training programs taught by that employee to be equivalent to any training program meeting the requirements established pursuant to this article.

SEC. 2. Section 901 of the Health and Safety Code is amended to read:

901. (a) As used in this section:

(1) ''Center'' means the Children's Environmental Health Center established pursuant to Section 900.

(2) ''Office'' means the Office of Environmental Health Hazard Assessment.

(b) On or before June 30, 2001, the office shall review cancer risk assessment guidelines for use by the office and the other entities within the California Environmental Protection Agency to establish cancer potency values or numerical health guidance values that adequately address carcinogenic exposures to the fetus, infants, and children.

(c) The review required by subdivision (b) shall include a review of existing state and federal cancer risk guidelines, as well as new

information on carcinogenesis, and shall consider the extent to which those guidelines address risks from exposures occurring early in life.

(d) The review required by subdivision (b) shall also include, but not be limited to, all of the following:

(1) The development of criteria for identifying carcinogens likely to have a greater impact if exposures occur early in life.

(2) The assessment of methodologies used in existing guidelines to address early-in-life exposures.

(3) The construction of a data base of animal studies to evaluate increases in risks from short-term early-in-life exposures.

(e) On or before June 30, 2004, the office shall finalize and publish children's cancer guidelines that shall be protective of children's health. These guidelines shall be revised and updated as needed by the office.

(f) (1) On or before December 31, 2002, the office shall publish a guidance document, for use by the Department of Toxic Substances Control and other state and local environmental and public health agencies, to assess exposures and health risks at existing and proposed schoolsites. The guidance document shall include, but not be limited to, all of the following:

(A) Appropriate child-specific routes of exposure unique to the school environment, in addition to those in existing exposure assessment models.

(B) Appropriate available child-specific numerical health effects guidance values, and plans for the development of additional child-specific numerical health effects guidance values.

(C) The identification of uncertainties in the risk assessment guidance, and those actions that should be taken to address those uncertainties.

(2) The office shall consult with the Department of Toxic Substances Control and the State Department of Education in the preparation of the guidance document required by paragraph (1) in order to ensure that it provides the information necessary for these two agencies to meet the requirements of Sections 17210.1 and 17213.1 of the Education Code.

(g) On or before January 1, 2002, the office, in consultation with the appropriate entities within the California Environmental Protection Agency, shall identify those chemical contaminants commonly found at schoolsites and determined by the office to be of greatest concern based on criteria that identify child-specific exposures and child-specific physiological sensitivities. On or before December 31, 2002, and annually thereafter, the office shall publish and make available to the public and to other state and local environmental and public health agencies and school districts, numerical health guidance values for five of those chemical contaminants identified pursuant to this subdivision until the contaminants identified have been exhausted.

(h) On and after January 1, 2002, and biannually thereafter, the center shall report to the Legislature and the Governor on the implementation of this section as part of the report required by subdivision (d) of Section 900. The report shall include, but not be limited to, information on revisions or modifications made by the office and other entities within the California Environmental Protection Agency to cancer potency values and other numerical health guidance values in order to be protective of children's health. The report shall also describe the use of the revised health guidance values in the programs and activities of the office and the other boards and departments within the California Environmental Protection Agency.

(i) Nothing in this section relieves any entity within the California Environmental Protection Agency of complying with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 Title 2 of the Government Code, to the extent that chapter is applicable to the entity on or before July 19, 2000, or the effective date of Section 57004.

SEC. 2.5. Section 25110.10 of the Health and Safety Code is amended to read:

25110.10. (a) ''Consolidation site'' means a site to which hazardous waste initially collected at a remote site, as defined in Section 25121.3, is transported.

(b) Hazardous waste initially collected at a remote site and subsequently transported to a consolidation site, which is operated by the generator of the hazardous waste, shall be deemed to be generated at the consolidation site for purposes of this chapter if the generator complies with the notification requirements of subdivision (d) and all of the following conditions are met:

(1) The hazardous waste is non-RCRA hazardous waste, or the hazardous waste or its management at the consolidation site is otherwise exempt from, or is not otherwise regulated pursuant to, the federal act.

(2) (A) The hazardous waste is not generated through large spill cleanup activities.

(B) As used in this paragraph, ''large spill cleanup'' means a spill cleanup operation that generates more than a total of 275 gallons or 2,500 pounds, whichever is greater, of hazardous waste.

(3) The hazardous waste is transported to the consolidation site within 10 days from the date that the generator first begins to actively manage the hazardous waste at the remote site, unless the generator has been granted an extension to the 10-day period. An extension of up to 20 days may be granted by the department, if the generator demonstrates to the department's satisfaction that more than 10 days is required to collect and transport the hazardous waste to the consolidation site solely for the purpose of facilitating effective and efficient removal, collection, or transportation of the hazardous waste.

(4) The hazardous waste is not handled at any interim site en route from the remote site to the consolidation site, except that the hazardous waste may be temporarily held at an interim site pursuant to subdivision (b) of Section 25121.3 and subdivision (e) of Section 25163.3.

(5) At the consolidation site, the hazardous waste is managed at all times in accordance with all applicable requirements of this chapter and the regulations adopted by the department pursuant to this chapter. For purposes of Section 25123.3, the accumulation period shall begin on the day that the hazardous waste arrives at the consolidation site.

(6) Each container of hazardous waste is labeled at the remote site, in accordance with the regulations adopted by the department pertaining to labeling requirements for generators, and the label remains on the container at all times while the hazardous waste is in the container and in the possession of the generator. Each container shall be labeled with the date that the container reaches the consolidation site. If individual containers are placed into a larger container, the labeling information required pursuant to this paragraph and paragraph (6) of subdivision (b) of Section 25121.3 shall also be placed on the outside of the larger container. If the hazardous waste is transferred to another container, the labeling information required pursuant to this paragraph and paragraph (6) of subdivision (b) of Section 25121.3 shall also be placed on the outside of the new container.

(7) The generator maintains at the consolidation site the information specified in paragraphs (1) to (10), inclusive, of subdivision (g) of Section 25163.3 for each shipment of hazardous waste initially collected at a remote site that is received at the consolidation site. This information shall be maintained for at least three years from the date that hazardous waste is received at the consolidation site. For shipments subject to the requirement to be accompanied by a shipment paper pursuant to subdivision (g) of Section 25163.3, the requirements of this paragraph may be fulfilled by maintaining a copy of the shipping paper at the consolidation site.

(c) For purposes of paragraph (1) of subdivision (d) of Section 25123.3, the ''initial accumulation point'' for hazardous waste initially collected at a remote site and subsequently transported to a consolidation site, in accordance with subdivision (b), shall be deemed to be the location where the hazardous waste is first accumulated at the consolidation site.

(d) (1) Subdivision (b) of this section and subdivision (b) of Section 25121.3 apply only to a generator who annually submits a notification of the generator's intent to operate under this exemption, in person or by certified mail, with return receipt requested, to the department and one of the following:

(A) The CUPA, if the generator is under the jurisdiction of a CUPA.

(B) If the generator is not under the jurisdiction of a CUPA, to the officer or agency authorized pursuant to subdivision (f) of Section 25404.3 to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(2) Any person who submits a notification of their intent to operate under this exemption shall comply with the requirements of this section and Sections 25121.3 and 25163.3.

(3) The notification required pursuant to paragraph (1) shall include all of the following information:

(A) A general description of the remote location from which the non-RCRA hazardous waste will be initially collected.

(B) A description of the type of hazardous waste that may be collected.

(C) The location of the consolidation site and the generator ID number for that generator.

(D) Significant differences in the generator's operations from the prior year's notification.

(e) Following the procedures specified in Section 25187, the department may revoke a generator's authority to operate pursuant to the exemption specified in this section and Sections 25121.3 and 25163.3, if the generator has demonstrated a pattern of failure to meet the requirements of this section and Sections 25121.3 and 25163.3 and the department, or the local officer or agency authorized to enforce this section pursuant to subdivision (a) of Section 25180, has notified the generator of these violations prior to issuing an order pursuant to Section 25187.

SEC. 3. Section 25111 of the Health and Safety Code is amended to read:

25111. ''Department'' means the Department of Toxic Substances Control.

SEC. 3.5. Section 25111.1 of the Health and Safety Code is amended to read:

25111.1. ''Designated local public officer'' means a local public officer designated by the director pursuant to subdivision (a) of Section 25180.

SEC. 4. Section 25112 of the Health and Safety Code is amended to read:

25112. ''Director'' means the Director of Toxic Substances Control.

SEC. 5. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) For purposes of this section, the following terms have the following meaning:

(1) ''Liquid hazardous waste'' means a hazardous waste that meets the definition of free liquids, as specified in Section 66260.10 of Title

22 of the California Code of Regulations, as that section read on January 1, 1994.

(2) ''Remediation waste staging'' means the temporary accumulation of non-RCRA contaminated soil that is generated and held onsite, and that is accumulated for the purpose of onsite treatment pursuant to a certified, authorized or permitted treatment method, such as a transportable treatment unit, if all of the following requirements are met:

(A) The hazardous waste being accumulated does not contain free liquids.

(B) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mills that is supported by a foundation, or high density polyethylene of at least 60 mills that is not supported by a foundation.

(C) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(D) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(E) The staging area is certified by a registered engineer for compliance with the standards specified in subparagraphs (A) to (D), inclusive.

(3) ''Transfer facility'' means any offsite facility that is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(b) ''Storage facility'' means a hazardous waste facility at which the hazardous waste meets any of the following requirements:

(1) The hazardous waste is held for greater than 90 days at an onsite facility. The department may establish criteria and procedures to extend that 90-day period, consistent with the federal act, and to prescribe the manner in which the hazardous waste may be held if not otherwise prescribed by statute.

(2) The hazardous waste is held for any period of time at an offsite facility which is not a transfer facility.

(3) (A) Except as provided in subparagraph (C), the hazardous waste is held at a transfer facility for periods greater than six days, or greater than 10 days for transfer facilities in areas zoned industrial by the local planning authority.

(B) The department may adopt regulations which set forth enforceable management standards that protect human health and the environment and which apply to persons holding hazardous waste at a transfer facility located in a commercial or residential area pursuant to

subparagraph (A). Any regulations adopted pursuant to this subparagraph shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare, and may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(C) (i) The department may extend the period of time specified in subparagraph (A) for hazardous waste that is generated as a result of an emergency release and that is collected and temporarily stored by emergency rescue personnel, as defined in Section 25501, or by a response action contractor upon the request of emergency rescue personnel or the response action contractor.

(ii) Notwithstanding any other provision of law, a transfer facility that holds hazardous waste for periods greater than six days, or greater than 10 days for transfer facilities in areas zoned industrial by the local planning authority, pursuant to this subparagraph shall not be classified as a storage facility.

(iii) For purposes of this subparagraph, ''response action contractor'' means any person who enters into a contract with the department to take removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) in response to a release or threatened release, including any subcontractors of the response action contractor.

(4) (A) Except as provided in subparagraph (B), the hazardous waste is held onsite for any period of time, unless the hazardous waste is held in a container, tank, drip pad, or containment building pursuant to regulations adopted by the department.

(B) Notwithstanding subparagraph (A), a generator that accumulates hazardous waste generated and held onsite for 90 days or less for offsite transportation is not a storage facility if all of the following requirements are met:

(i) The waste is non-RCRA contaminated soil.

(ii) The hazardous waste being accumulated does not contain free liquids.

(iii) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mills that is supported by a foundation, or high density polyethylene of at least 60 mills that is not supported by a foundation.

(iv) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(v) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(vi) The generator, after final offsite transportation, inspects the accumulation site for contamination and remediates as necessary.

(vii) The site is certified by a registered engineer for compliance with the standards specified in clauses (i) to (vi), inclusive.

(5) The hazardous waste is held at a transfer facility for any period of time in a manner other than in a container or tank.

(6) (A) Except as provided in subparagraph (B), the hazardous waste is held at a transfer facility for any period of time and handling occurs.

(B) Notwithstanding subparagraph (A), and to the extent consistent with the federal act, a transfer facility is not a storage facility if the hazardous waste is held in containers or tanks at a transfer facility for a period of six days or less, or 10 days or less for transfer facilities in areas zoned industrial by the local planning authority, and no handling occurs, other than the transfer of packages or containerized hazardous waste from one vehicle to another.

(c) The time period for calculating the 90-day period for purposes of paragraph (1) of subdivision (b), or the 180-day or 270-day period for purposes of subdivision (h), begins when the facility has accumulated 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste. However, if the facility generates more than 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste during any calendar month, the time period begins when any amount of hazardous waste first begins to accumulate in that month.

(d) Notwithstanding paragraph (1) of subdivision (b), a generator of hazardous waste that accumulates waste onsite is not a storage facility if all of the following requirements are met:

(1) The generator accumulates a maximum of 55 gallons of hazardous waste, one quart of acutely hazardous waste, or one quart of extremely hazardous waste at an initial accumulation point that is at or near the area where the waste is generated and that is under the control of the operator of the process generating the waste.

(2) The generator accumulates the waste in containers other than tanks.

(3) The generator does not hold the hazardous waste onsite without a hazardous waste facilities permit or other grant of authorization for a period of time longer than the shorter of the following time periods:

(A) One year from the initial date of accumulation.

(B) Ninety days, or if subdivision (h) is applicable, 180 or 270 days, from the date that the quantity limitation specified in paragraph (1) is reached.

(4) The generator labels any container used for the accumulation of hazardous waste with the initial date of accumulation and with the words

''hazardous waste'' or other words that identify the contents of the container.

(5) Within three days of reaching any applicable quantity limitation specified in paragraph (1), the generator labels the container holding the accumulated hazardous waste with the date the quantity limitation was reached and either transports the waste offsite or holds the waste onsite and complies with either the regulations adopted by the department establishing requirements for generators subject to the time limit specified in paragraph (1) of subdivision (b) or the requirements specified in paragraph (1) of subdivision (h), whichever requirements are applicable.

(6) The generator complies with regulations adopted by the department pertaining to the use and management of containers and any other regulations adopted by the department to implement this subdivision.

(e) (1) Notwithstanding paragraphs (1) and (4) of subdivision (b), hazardous waste held for remediation waste staging shall not be considered to be held at a hazardous waste storage facility if the total accumulation period is one year or less from the date of the initial placing of hazardous waste by the generator at the staging site for onsite remediation, except that the department may grant one six-month extension, upon a showing of reasonable cause by the generator.

(2) (A) The generator shall submit a notification of plans to store and treat hazardous waste onsite pursuant to paragraph (2) of subdivision (a), in person or by certified mail, with return receipt requested, to the department and to one of the following:

(i) The CUPA, if the generator is under the jurisdiction of a CUPA.

(ii) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(B) If, after the notification pursuant to subparagraph (A), or during the initial year or the six-month extension granted by the department, the generator determines that treatment cannot be accomplished for all, or part of, the hazardous waste accumulated in a remediation waste staging area, the generator shall immediately notify the department and the appropriate local agency, pursuant to subparagraph (A), that the treatment has been discontinued. The generator shall then handle and dispose of the hazardous waste in accordance with paragraph (4) of subdivision (b).

(C) A generator shall not hold hazardous waste for remediation waste staging unless the generator can show, through laboratory testing, bench scale testing, or other documentation, that soil held for remediation

waste staging is potentially treatable. Any fines and penalties imposed for a violation of this subparagraph may be imposed beginning with the 91st day that the hazardous waste was initially accumulated.

(3) Once an onsite treatment operation is completed on hazardous waste held pursuant to paragraph (1), the generator shall inspect the staging area for contamination and remediate as necessary.

(f) Notwithstanding any other provision of this chapter, remediation waste staging and the holding of non-RCRA contaminated soil for offsite transportation in accordance with paragraph (4) of subdivision (b) shall not be considered to be disposal or land disposal of hazardous waste.

(g) A generator who holds hazardous waste for remediation waste staging pursuant to paragraph (2) of subdivision (a) or who holds hazardous waste onsite for offsite transportation pursuant to paragraph (4) of subdivision (b) shall maintain records onsite that demonstrate compliance with this section related to storing hazardous waste for remediation waste staging or related to holding hazardous waste onsite for offsite transportation, as applicable. The records maintained pursuant to this subdivision shall be available for review by any public agency authorized pursuant to Section 25180 or 25185.

(h) (1) Notwithstanding paragraph (1) of subdivision (b), a generator of less than 1,000 kilograms of hazardous waste in any calendar month who accumulates hazardous waste onsite for 180 days or less, or 270 days or less if the generator transports the generator's own waste, or offers the generator's waste for transportation, over a distance of 200 miles or more, for offsite treatment, storage, or disposal, is not a storage facility if all of the following apply:

(A) The quantity of hazardous waste accumulated onsite never exceeds 6,000 kilograms.

(B) The generator complies with the requirements of subdivisions (d), (e), and (f) of Section 262.34 of Title 40 of the Code of Federal Regulations.

(C) The generator does not hold acutely hazardous waste or extremely hazardous waste in an amount greater than one kilogram for a time period longer than that specified in paragraph (1) of subdivision (b).

(2) A generator meeting the requirements of paragraph (1) who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the facility to which the generator's waste is submitted, within 60 days from the date that the hazardous waste was accepted by the initial transporter, shall submit to the department a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery.

SEC. 6. Section 25123.5 of the Health and Safety Code is amended to read:

25123.5. (a) Except as provided in subdivisions (b) and (c), ''treatment'' means any method, technique, or process which is not otherwise excluded from the definition of treatment by this chapter and which is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or which removes or reduces its harmful properties or characteristics for any purpose.

(b) (1) ''Treatment'' does not include any of the activities listed in paragraph (2), if one of the following requirements is met:

(A) The activity is conducted onsite in accordance with the requirements of this chapter and the department's regulations adopted pursuant to this chapter governing the generation and accumulation of hazardous waste.

(B) The activity is conducted in accordance with the conditions specified in a permit issued by the department for the storage of hazardous waste.

(2) The activities subject to the exemption specified in paragraph (1) include all of the following:

(A) Sieving or filtering liquid hazardous waste to remove solid fractions, without added heat, chemicals, or pressure, as the waste is added to or removed from a storage or accumulation tank or container. For purposes of this subparagraph, sieving or filtering does not include adsorption, reverse osmosis, or ultrafiltration.

(B) Phase separation of hazardous waste during storage or accumulation in tanks or containers, if the separation is unaided by the addition of heat or chemicals. If the phase separation occurs at a commercial offsite permitted storage facility, all phases of the hazardous waste shall be managed as hazardous waste after separation.

(C) Combining two or more waste streams that are not incompatible into a single tank or container if both of the following conditions apply:

(i) The waste streams are being combined solely for the purpose of consolidated accumulation or storage or consolidated offsite shipment, and they are not being combined to meet a fuel specification or to otherwise be chemically or physically prepared to be treated, burned for energy value, or incinerated.

(ii) The combined waste stream is managed in compliance with the most stringent of the regulatory requirements applicable to each individual waste stream.

(D) Evaporation of water from hazardous wastes in tanks or containers, such as breathing and evaporation through vents and floating roofs, without the addition of pressure, chemicals, or heat other than sunlight or ambient room lighting or heating.

(3) This subdivision does not apply to any activity for which a hazardous waste facilities permit for treatment is required under the federal act.

(c) ''Treatment'' does not include the combination of glutaraldehyde or orthophthalaldehyde, which is used by medical facilities to disinfect medical devices, with formulations containing glycine as the sole active chemical, if the process is carried out onsite.

SEC. 6.4. Section 25141.5 of the Health and Safety Code is amended to read:

25141.5. (a) When classifying a waste as hazardous pursuant to the criteria in paragraph (8) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, as that section read on January 1, 1993, the department shall incorporate the department's decision into a regulation, if the department determines that the waste's classification as a hazardous waste is likely to have broad application beyond the producer who initiated the request.

(b) Unless the department makes a determination after January 1, 1996, by regulation, that additional criteria are necessary to protect the public health, safety, and environment of the state, the department shall use the following criteria and procedures for the identification and regulation of the following types of hazardous waste:

(1) In identifying wastes that are hazardous due to the characteristic of reactivity, the department shall rely on objective analytical tests, procedures, and numerical thresholds set forth in the regulations or guidance documents adopted by the United States Environmental Protection Agency.

(2) (A) On and after January 1, 1997, in identifying wastes that are hazardous due to the characteristic of acute oral toxicity, as defined in the regulations adopted by the department pursuant to this chapter, the department shall use an oral LD50 threshold of less than 2,500 milligrams per kilogram, unless the department adopts revised regulations setting forth a different threshold for acute oral toxicity, based on a review and update of the scientific basis for this criterion.

(B) Notwithstanding any other provision of this chapter or the regulations adopted by the department prior to January 1, 1996, to the extent consistent with the federal act, the substances listed in this subparagraph shall not be classified as hazardous waste due solely to the characteristic of acute oral toxicity. The language in parentheses following the scientific name of each of the substances listed in this paragraph describes one or more common uses of each substance, and is provided for informational purposes only.

(i) Acetic acid (vinegar).

(ii) Aluminum chloride (used in deodorants).

(iii) Ammonium bromide (used in textile finishing and as an anticorrosive agent).

(iv) Ammonium sulfate (used as a food additive and in fertilizer).

(v) Anisole (used in perfumes and food flavoring).

(vi) Boric acid (used in eyewashes and heat resistant glass).

(vii) Calcium fluoride (used to fluoridate drinking water).

(viii) Calcium formate (used in brewing and as a briquette binder).

(ix) Calcium propionate (used as a food additive).

(x) Cesium chloride (used in brewing and in mineral waters).

(xi) Magnesium chloride (used as a flocculating agent).

(xii) Potassium chloride (used as a salt substitute and a food additive).

(xiii) Sodium bicarbonate (baking soda, used in antacids and mouthwashes).

(xiv) Sodium borate decahydrate (borax, used in laundry detergents).

(xv) Sodium carbonate (soda ash, used in textile processing).

(xvi) Sodium chloride (table salt).

(xvii) Sodium iodide (used as an iodine supplement and in cloud seeding).

(xviii) Sodium tetraborate (borax, used in laundry detergents).

(xix) The following oils commonly used as food flavorings: allspice oil, ceylon cinnamon oil, clarified slurry oil, dill oils, or lauryl leaf oil.

(3) (A) Except as provided in subparagraph (B), a waste that would be classified as hazardous solely because it exceeds total threshold limit concentrations, as defined in regulations adopted by the department, shall be excluded from classification as a hazardous waste for purposes of disposal in, and is allowed to be disposed in, a disposal unit regulated as a permitted class I, II, or III disposal unit, pursuant to Section 2531 of Title 23, and Sections 20250 and 20260 of Title 27 of the California Code of Regulations, if, prior to disposal, the waste is managed in accordance with the management standards adopted by the department, by regulation, if any, for this specific type of waste.

(B) Subparagraph (A) shall not apply to a hazardous waste that is a liquid, a sludge or sludge-like material, soil, a solid that is friable, powdered, or finely divided, a nonfilterable and nonmillable tarry material, or a waste that contains an organic substance that exceeds the total threshold limit concentration established by the department for that substance.

(C) For purposes of this subparagraph (B), the following definitions shall apply:

(i) A waste is liquid if it meets the test specified in subdivision (i) of Section 66268.32 of Title 22 of the California Code of Regulations.

(ii) ''Sludge or sludge-like material'' means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air

pollution control facility, but does not include the treated effluent from wastewater treatment plants.

(iii) ''Friable, powdered, or finely divided'' has the same meaning as used in the regulations adopted by the department pursuant to this chapter.

(iv) ''Nonfilterable and nonmillable tarry material'' has the same meaning as used in the regulations adopted by the department pursuant to this chapter.

(D) This paragraph does not affect the authority of a city or county regarding solid waste management under existing provisions of law.

(c) Any regulations adopted pursuant to subdivision (b) shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare, and may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6.5. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to this chapter and the regulations adopted by the department to implement this chapter that apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or in the regulations adopted by the department pursuant to Sections 25150 and 25151.

(b) Except as otherwise provided in subdivisions (e), (f), and (g), recyclable material that is managed in accordance with Section 25143.9 and is or will be recycled by any of the following methods shall be excluded from classification as a waste:

(1) Used or reused as an ingredient in an industrial process to make a product if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivision (e), any recyclable material may be recycled at a facility that is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil that is converted into petroleum coke at the same facility at which the waste was

generated unless the resulting coke product would be identified as a hazardous waste under this chapter.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within the applicable generator accumulation time limits specified in Section 25123.3 and the regulations adopted by the department pursuant to paragraph (1) of subdivision (b) of Section 25123.3.

(C) The material is managed in accordance with all applicable requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivisions (e), (f), (g), and (h), recyclable material that meets the definition of a non-RCRA hazardous waste in Section 25117.9, is managed in accordance with Section 25143.9, and meets or will meet any of the following requirements is excluded from classification as a waste:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product that has been processed from a hazardous waste, or has been handled, at a facility authorized by the department pursuant to the facility permit requirements of Article 9 (commencing with Section 25200) to process or handle the material, if the product meets both of the following conditions:

(i) The product does not contain constituents, other than those for which the material is being recycled, that render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(ii) The product is used, or distributed or sold for use, in a manner for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil that is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent that is managed by the owner or operator of a refinery that is processing primarily crude oil and is not subject to permit requirements for the recycling of used oil, of a public utility, or of a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler that is in compliance with all

applicable federal and state laws, or is recombined with normal process streams to produce a fuel or other refined petroleum product.

(ii) The material is managed at the site where it was generated; managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator; or, if the material is generated in the course of oil or gas exploration or production, managed by an unrelated refinery receiving the waste through a common pipeline.

(iii) The material does not contain constituents, other than those for which the material is being recycled, that render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141, unless the material is an oil-bearing material or recovered oil that is managed in accordance with subdivisions (a) and (c) of Section 25144 or unless the material is used oil removed from equipment, vehicles, or engines used primarily at the refinery where it is to be used to produce fuels or other refined petroleum products and the used oil is managed in accordance with Section 279.22 of Title 40 of the Code of Federal Regulations prior to insertion into the refining process.

(D) The material is a fuel that is transferred to, and processed into, a fuel or other refined petroleum product at a petroleum refinery, as defined in paragraph (4) of subdivision (a) of Section 25144, and meets one of the following requirements:

(i) The fuel has been removed from a fuel tank and is contaminated with water or nonhazardous debris, of not more than 2 percent by weight, including, but not limited to, rust or sand.

(ii) The fuel has been unintentionally mixed with an unused petroleum product.

(3) The material is transported between locations operated by the same person who generated the material, if the material is recycled at the last location operated by that person and all of the conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (4) are met. If requested by the department or by any official authorized to enforce this section pursuant to subdivision (a) of Section 25180, a person handling material subject to this paragraph, within 15 days from the date of receipt of the request, shall supply documentation to show that the requirements of this paragraph have been satisfied.

(4) (A) The material is transferred between locations operated by the same person who generated the material, if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(i) The material is transferred by employees of that person in vehicles under the control of that person or by a registered hazardous waste hauler under contract to that person.

(ii) The material is not handled at any interim location.

(iii) The material is not held at any publicly accessible interim location for more than four hours unless required by other provisions of law.

(iv) The material is managed in compliance with this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by that person. Upon receipt of the material at the last location operated by that person, the material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person and kept for at least three years after receipt of the material at that location:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph, within 15 days from the date of receipt of the request, shall supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of this paragraph, ''person'' also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons that are a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent, and that manage recyclable materials under paragraph (3) or subparagraph (A) of this paragraph, are jointly and severally liable for any activities excluded from regulation pursuant to this section.

(5) The material is used or reused as an ingredient in an industrial process to make a product if the material is not being treated before introduction to that process except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents that are hazardous wastes pursuant to the regulations of the department and are in compliance with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(6) The material is used or reused as a safe and effective substitute for commercial products, if the material is not being treated except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents that are hazardous wastes pursuant to the regulations of the department and are in compliance with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(7) The material is a chlorofluorocarbon or hydrochlorofluorocarbon compound or a combination of chlorofluorocarbon or hydrochlorofluorocarbon compounds, is being reused or recycled, and is used in heat transfer equipment, including, but not limited to, mobile air-conditioning systems, mobile refrigeration, and commercial and industrial air-conditioning and refrigeration systems, used in fire extinguishing products, or contained within foam products.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), and even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials that are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land, including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance.

(2) Materials that are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B), (C), or (D) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions that are transported to an offsite facility operated by a person other than the generator and either of the following applies:

(A) The etchants or solutions are no longer fit for their originally purchased or manufactured purpose.

(B) If the etchants or solutions are reused, the generator and the user cannot document that they are used for their originally purchased or manufactured purpose without prior treatment.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless one of the following applies:

(A) The used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d), paragraph (4) of subdivision (d), subdivision (b) of Section 25250.1 or Section 25250.3, and is managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(B) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d), is managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations, and is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel unless the used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) (1) Any person who manages a recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to this section shall provide, upon request, to the department, the California Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to the management by that person of the material requested by the department, the California Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption pursuant to this section shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section is subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

(h) Used oil that fails to qualify for exclusion pursuant to subdivision (d) solely because the used oil is a RCRA hazardous waste may be managed pursuant to subdivision (d) if the used oil is also managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

SEC. 6.6. Section 25143.13 of the Health and Safety Code is amended to read:

25143.13. (a) Notwithstanding any other provision of law, except as provided in subdivision (c), wastes containing silver or silver compounds that are RCRA hazardous wastes solely due to the presence of silver in the waste are subject to regulation under this chapter solely to the extent that these wastes are subject to regulation under the federal act. This subdivision does not apply to wastes that are classified as non-RCRA hazardous wastes due to the presence of constituents or characteristics other than silver.

(b) Notwithstanding any other provision of law, wastes containing silver or silver compounds are exempt from regulation under this chapter if the wastes are not subject to regulation under the federal act as RCRA hazardous waste, and the wastes would otherwise be subject to regulation under this chapter solely due to the presence of silver in the waste.

(c) With respect to treatment of a hazardous waste, subdivision (a) applies only to the removal of silver from photoimaging solutions and photoimaging solution wastewaters. Any other treatment of wastes containing silver or silver compounds that are RCRA hazardous wastes is subject to all of the applicable requirements of this chapter.

(d) The department shall amend its regulations, as necessary, to conform to this section. Until the department amends these regulations, the applicable regulations adopted by the Environmental Protection Agency pursuant to the federal act pertaining to the regulation of wastes containing silver or silver compounds, which are regulated as RCRA hazardous wastes solely due to the presence of silver in the waste, shall be deemed to be the regulations of the department, except as otherwise provided in subdivision (c).

(e) This section shall not be construed to limit or abridge the powers or duties granted to any state or local agency pursuant to any law, other than this chapter, to regulate wastes containing silver or silver compounds.

SEC. 7. Section 25149 of the Health and Safety Code is amended to read:

25149. (a) Notwithstanding any other provision of law, except as provided in Section 25149.5 or 25181 of this code or Section 731 of the Code of Civil Procedure, no city or county, whether chartered or general law, or district may enact, issue, enforce, suspend, revoke, or modify any ordinance, regulation, law, license, or permit relating to an existing hazardous waste facility so as to prohibit or unreasonably regulate the disposal, treatment, or recovery of resources from hazardous waste or a mix of hazardous and solid wastes at that facility, unless, after public notice and hearing, the director determines that the operation of the facility may present an imminent and substantial endangerment to health and the environment. However, nothing in this section authorizes an operator of that facility to violate any term or condition of a local land use permit or any other provision of law not in conflict with this section.

(b) The director shall, pursuant to subdivision (c), conduct the hearing specified in subdivision (a) to determine whether the operation of an existing hazardous waste facility may present an imminent and substantial endangerment to health and the environment whenever any of the following occurs:

(1) A state or federal public agency requires any person to evacuate a residence or requires the evacuation of a school, place of employment, commercial establishment, or other facility to which the public has access, because of the release of a hazardous substance from the facility.

(2) For more than five days in any month, the air emissions from the facility result in the violation of an emission standard for a hazardous air pollutant established pursuant to Section 7412 of Title 42 of the United States Code or the threshold exposure level for a toxic air contaminant, as defined in Section 39655.

(3) A state or federal public agency requires that the use of a source of drinking water be discontinued because of the contamination of the

source by a release of hazardous waste, hazardous substances, or leachate from the facility.

(4) A state agency, or the board of supervisors of the county in which the facility is located, upon recommendation of its local health officer, makes a finding that the public health has been affected by a release of hazardous wastes from the facility. The finding shall be based on statistically significant data developed in a health effects study conducted according to a study design, and using a methodology, that are developed after considering the suggestions on study design and methodology made by interested parties and that are approved by the Epidemiological Studies Section in the Epidemiology and Toxicology Branch of the State Department of Health Services before beginning the study.

(5) The owner or operator of the facility is in violation of an order issued pursuant to Section 25187 that requires one or both of the following:

(A) The correction of a violation or condition that has resulted, or threatens to result, in an unauthorized release of hazardous waste or a constituent of hazardous waste from the facility into either the onsite or offsite environment.

(B) The cleanup of a release of hazardous waste or a constituent of hazardous waste, the abatement of the effects of the release, and any other necessary remedial action.

(6) The facility is in violation of an order issued pursuant to Article 1 (commencing with Section 13300) of, or Article 2 (commencing with Section 13320) of, Chapter 5 of Division 7 of the Water Code or in violation of a temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to Article 4 (commencing with Section 13340) of Chapter 5 of Division 7 of the Water Code.

(c) Whenever the director determines that a hearing is required, as specified in subdivision (b), the director shall immediately request the Office of Administrative Hearings to assign an administrative law judge to conduct the hearing, pursuant to this subdivision.

(1) After an administrative law judge is assigned by the Office of Administrative Hearings, the director shall transmit to the administrative law judge and to the operator of the existing hazardous waste facility, all relevant documents, information, and data that were the basis for the director's determination. The director shall also prepare a notice specifying the time and place of the hearing. The notice shall also include a clear statement of the reasons for conducting the hearing, a description of the facts, data, circumstances, or occurrences that are the cause for conducting the hearing, and the issues to be addressed at the hearing. The hearing shall be held as close to the location of the existing hazardous waste facility as is practicable and shall commence no later

than 30 days following the director's request to the Office of Administrative Hearings to assign an administrative law judge to the case.

(2) The hearing specified in paragraph (1) shall be conducted in accordance with Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, and Sections 11511 to 11515, inclusive, of, the Government Code. The administrative law judge's proposed decision shall be transmitted to the director within 30 days after the case is submitted.

(3) The director may adopt the proposed decision of the administrative law judge in its entirety or may decide the case upon the record, as provided in Section 11517 of the Government Code. The director's decision shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision is subject to judicial review in accordance with Section 11523 of the Government Code.

SEC. 8. Section 25150 of the Health and Safety Code is amended to read:

25150. (a) The department shall adopt, and revise when appropriate, standards and regulations for the management of hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment.

(b) The department and the local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180 shall apply the standards and regulations adopted pursuant to subdivision (a) to the management of hazardous waste.

(c) Except as provided in subdivision (d), the department may limit the application of the standards and regulations adopted or revised pursuant to subdivision (a) at facilities operating pursuant to a hazardous waste facilities permit or other grant of authorization issued by the department in any manner that the department determines to be appropriate, including, but not limited to, requiring these facilities to apply for, and receive, a permit modification prior to the application of the standards and regulations.

(d) The department shall not adopt or revise standards and regulations which result in the imposition of any requirement for the management of a RCRA waste that is less stringent than a corresponding requirement adopted by the Environmental Protection Agency pursuant to the federal act.

(e) The department shall adopt, and revise when appropriate, regulations for the recycling of hazardous waste to protect against hazards to the public health, domestic livestock, wildlife, or to the environment, and to encourage the best use of natural resources.

(f) Before the adoption of regulations, the department shall notify all agencies of interested local governments, including, but not limited to, certified unified program agencies, local governing bodies, local planning agencies, local health authorities, local building inspection departments, the Department of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Fish and Game, the Department of Industrial Relations, the Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, the State Building Standards Commission, the Office of Environmental Health Hazard Assessment, and the California Integrated Waste Management Board.

SEC. 9. 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 that 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 that 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. Except as provided otherwise in paragraph (2) of subdivision (h) of Section 25123.3, 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 United

States Environmental Protection Agency 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 that 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 in which 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. 9.5. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) (1) Except as otherwise provided in subdivisions (b), (c), (e), and (f), it is unlawful for any person to carry on, or engage in, the transportation of hazardous wastes unless the person holds a valid registration issued by the department, and it is unlawful for any person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste transporter for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the Department of the California Highway Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration certificate from the department upon the payment of a fee of two dollars ($2) for each copy requested, in accordance with Section 12196 of the Government Code.

(3) The hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Article 1 (commencing with Section 117400) of Chapter 4 of Part 13 of Division 104 are exempt from the requirements of subdivision (a).

(c) Except as provided in subdivision (f), persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the requirements of subdivision (a) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces not more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) Any person registered as a hazardous waste transporter pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with those terms, conditions, orders, and directions that the health officer or the health officer's authorized representative may determine to be necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local

health officer in the city or county in which the registered hazardous waste transporter will be conducting the activities described in Section 25001.

(e) Any person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to subdivision (a).

(f) Any person transporting household hazardous waste or a conditionally exempt small quantity generator transporting hazardous waste to an authorized household hazardous waste collection facility pursuant to Section 25218.5 is exempt from subdivision (a) and from paragraph (1) of subdivision (d) of Section 25160 requiring possession of the manifest while transporting hazardous waste.

SEC. 9.6. Section 25179.6 of the Health and Safety Code is amended to read:

25179.6. (a) (1) A land disposal restriction, treatment standard, or land disposal criteria adopted by the department pursuant to former Article 7.7 (commencing with Section 25179.1), which article was repealed by the act adding this section, pursuant to this section, shall remain in effect on and after January 1, 1996, except as provided in paragraph (2), only if both of the following conditions apply to that adopted restriction, treatment standard, or land disposal criteria:

(A) The land disposal of hazardous waste was actually prohibited or otherwise limited by those disposal restrictions, treatment standards, or land disposal criteria on and before December 31, 1995.

(B) The implementation date of those disposal restrictions, treatment standards, or land disposal criteria were not suspended until January 1, 1996, by any provision of former Article 7.7 (commencing with Section 25179.1).

(2) Those land disposal restrictions, treatment standards, or land disposal criteria that remain in effect on and after January 1, 1996, pursuant to paragraph (1), may be repealed or amended by the department by regulation to maintain consistency with this article or pursuant to a determination by the department that any such land disposal restriction, treatment standard, or land disposal criteria is not necessary to protect public health and safety or the environment.

(b) On and after January 1, 1996, any land disposal restriction, treatment standard, or land disposal criteria that is not required pursuant to Section 25179.5 and that was adopted by the department pursuant to the former Article 7.7 (commencing with Section 25179.1) specified in subdivision (a), but that did not prohibit land disposal prior to January 1, 1996, or was otherwise suspended until January 1, 1996, by any provision of former Article 7.7 shall not prohibit land disposal on or after

January 1, 1996, and shall be deemed repealed, including any land disposal restriction, treatment standard, or land disposal criteria for any of the following categories of hazardous waste:

(1) Any RCRA hazardous waste for which a treatment standard has not been adopted or for which the United States Environmental Protection Agency has granted a delay of the effective date of the standard pursuant to Section 6924 of the federal act.

(2) Any non-RCRA hazardous waste subject to treatment standards based upon incineration, solvent extraction, or biological treatment.

(3) Any non-RCRA hazardous waste subject to a treatment standard adopted pursuant to paragraph (3) of subdivision (a) of Section 66268.106 of Title 22 of the California Code of Regulations.

(c) Except as provided in subdivision (a) with regard to repealing or limiting the effect of restrictions, standards or criteria that prohibited land disposal as of December 31, 1995, the department, by regulation, may adopt new land disposal restrictions, treatment standards, or land disposal criteria in addition to, or more stringent than, those restrictions, standards, or criteria required pursuant to the federal act, or required by the United States Environmental Protection Agency pursuant to the federal act, or for those hazardous wastes not subject to restrictions, standards, or criteria required pursuant to the federal act, or required by the United States Environmental Protection Agency pursuant to the federal act, if the department determines, after holding a public hearing, that both of the following conditions exist:

(1) A new state land disposal restriction, treatment standard, or criteria is necessary to protect public health and safety and the environment, as indicated by evidence on the record.

(2) Attainment of the additional restriction, standard, or criteria can be practically achieved in this state and is consistent with the intent language of this article, as provided in Section 25179.1.

(d) On or before January 1, 2001, the department shall review and, as deemed necessary, revise the hazardous waste land disposal restrictions, treatment standards, and land disposal criteria that were adopted by the department before January 1, 1996, pursuant to former Article 7.7 (commencing with Section 25179.1) and that remain in effect after that date, to maintain consistency with this section. Any treatment standards adopted by the department on or after January 1, 1996, pursuant to this section, shall be reviewed and revised, as deemed necessary, by the department.

(e) Nothing in this section exempts the department from compliance with Section 57005 and with Sections 11346.2, 11346.3, and 11346.5 of the Government Code.

SEC. 9.7. Section 25186.1 of the Health and Safety Code is amended to read:

25186.1. (a) Except as specified in Section 25186.2, proceedings for the suspension or revocation of a permit, registration, or certificate under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of a conflict between this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the provisions of the Government Code shall prevail.

(b) (1) Proceedings to determine whether to grant, issue, modify, or deny a permit, registration, or certificate shall be conducted in accordance with the regulations adopted by the department.

(2) The petition for judicial review of a final decision of the department to grant, issue, modify, or deny a permit, registration, or certificate shall not be filed later than 90 days after the date that the notice of the final decision is served.

SEC. 10. Section 25199.6 of the Health and Safety Code is amended to read:

25199.6. (a) Section 65943 of the Government Code does not apply to the department's review of applications for a hazardous waste facilities permit. The department shall review for completeness each application for a hazardous waste facilities permit and notify the applicant in writing whether the application is complete within 30 days from the date of receipt. If the application is incomplete, the department shall require the applicant to provide the information necessary to make the application complete. An application is not deemed to be complete until the department notifies the applicant that the application is complete. After an application is determined to be complete, the department may request additional information only when necessary to clarify, modify, or supplement previously submitted material.

(b) Notwithstanding Section 65952 of the Government Code, any public agency that is a responsible agency for a hazardous waste facility project that is a land disposal facility shall approve or disapprove the project within one of the following periods of time, whichever is longer:

(1) Within one year from the date on which the lead agency approved or disapproved the project.

(2) Within one year from the date on which the completed application for the project has been received, and accepted as complete, by that responsible agency.

(c) Notwithstanding Section 65952 of the Government Code and Section 25199.2, any public agency that is a responsible agency for a hazardous waste facility project that is not a land disposal facility shall approve or disapprove the project within one of the following periods of time, whichever is longer:

(1) Within 180 days from the date on which the lead agency approved or disapproved the project.

(2) Within 180 days from the date on which the completed application for the project has been received, and accepted as complete, by that responsible agency.

(d) Subdivision (b) of Section 65956 of the Government Code does not apply to the failure of a lead agency or responsible agency to approve or disapprove a permit for a hazardous waste facility project within the time limits established by Sections 65950 and 65952 of the Government Code and subdivisions (b) and (c) of this section. If a lead agency or a responsible agency fails to act within those time limits, the applicant may file an action pursuant to Section 1085 of the Code of Civil Procedure to compel the agency to approve or disapprove the permit for the project within a reasonable time, as the court may determine.

SEC. 11. Section 25199.10 of the Health and Safety Code is amended to read:

25199.10. (a) If an appeal is filed pursuant to subdivision (b), (d), or (e) of Section 25199.9, or paragraph (3) of subdivision (c) of Section 25199.9, the Governor or the Governor's designee shall determine within five working days whether the proponent has obtained all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies, and which were obtainable when the appeal was filed. If, because the application for the appeal is incomplete, the Governor or the Governor's designee is unable to determine, within five working days, whether or not the appeal board should be convened, the Governor or the Governor's designee shall return the application for appeal to the proponent or interested party who filed the appeal. The proponent or interested party shall resubmit the completed application for an appeal within 20 calendar days after receiving the returned appeal and if the proponent or interested party fails to do so, the Governor or the Governor's designee shall not reconsider whether to convene an appeal board.

(b) If the Governor or the Governor's designee determines, pursuant to subdivision (a), that the proponent has obtained all permits for the specified hazardous waste facility project which can be obtained before construction from those responsible agencies which are state agencies, or if an appeal is filed pursuant to paragraph (1) of subdivision (c) of Section 25199.9, the Governor or the Governor's designee shall convene an appeal board within 30 days after making that determination or receiving that appeal, by requesting the League of California Cities and the County Supervisors Association of California to each nominate persons for appointment to an appeal board, as specified in paragraphs (6) and (7) of subdivision (c).

(c) An appeal board shall consist of seven members, five of whom shall be the members listed in paragraphs (1) to (5), inclusive, and two of whom shall be separately appointed for each particular appeal, as provided in paragraphs (6) and (7). An appeal board shall consist of the following members:

(1) The Director of Toxic Substances Control.

(2) The Chairperson of the State Air Resources Board.

(3) The Chairperson of the State Water Resources Control Board.

(4) A member of a county board of supervisors appointed by the Senate Committee on Rules who shall be selected from the persons nominated by the County Supervisors Association of California. The appointment shall be for a period of four years, but shall terminate earlier if the appointee does not continue in office as a member of a board of supervisors.

(5) A member of a city council appointed by the Speaker of the Assembly who shall be selected from the persons nominated by the League of California Cities. The appointment shall be for a period of four years, but shall terminate earlier if the appointee does not continue in office as a member of a city council.

(6) A member of a county board of supervisors appointed by the Speaker of the Assembly who shall be selected from the persons nominated by the County Supervisors Association of California. The member shall be from the county in which the specified hazardous waste facility project which is the subject of the appeal is located. However, if the member appointed pursuant to paragraph (4) is from the county in which the specified hazardous waste facility project is located, the member appointed pursuant to this paragraph shall not be from that same county. If the appointee appointed pursuant to this paragraph does not continue in office as a member of a board of supervisors for the duration of the appeal for which the appointment was made, the appointment shall terminate and a new appointment shall be made.

(7) A member of a city council appointed by the Senate Committee on Rules who shall be selected from the persons nominated by the League of California Cities. The member shall be from the city in which the specified hazardous waste facility project which is the subject of the appeal is located, or from the city which the Governor or the Governor's designee determines to be the most directly affected by the project if the project is not located in a city. However, if the member appointed under paragraph (5) is from a city in the county in which the specified hazardous waste facility project is located, the member appointed under this paragraph shall be from a city in a different county. If the appointee appointed pursuant to this paragraph does not continue in office as a member of a city council for the duration of the appeal for which the

appointment was made, the appointment shall terminate and a new appointment shall be made.

(d) The appeal board shall issue the final decision upon an appeal in writing and the members of the appeal board shall sign the decision.

(e) The Director of Toxic Substances Control, the Chairperson of the State Air Resources Board, and the Chairperson of the State Water Resources Control Board may designate an alternate to attend any meetings or hearings of an appeal board in that person's place, except that the alternate may not vote on a final decision on an appeal or sign the written decision in place of the person for whom the person serves as alternate.

(f) The Governor or the Governor's designee shall designate staff to serve the appeal board.

SEC. 12. Section 25201.6 of the Health and Safety Code is amended to read:

25201.6. (a) For purposes of this section and Section 25205.2, the following terms have the following meaning:

(1) ''Series A standardized permit'' means a permit issued to a facility that meets one or more of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 50,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 100,000 pounds per calendar month.

(C) The total facility storage design capacity is greater than 500,000 gallons for liquid hazardous waste.

(D) The total facility storage design capacity is greater than 500 tons for solid hazardous waste.

(E) A volume of liquid or solid hazardous waste is stored at the facility for more than one calendar year.

(2) ''Series B standardized permit'' means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not exceed any of the upper volume limits specified in subparagraphs (A) to (D), inclusive, and that meets one or more of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 5,000 gallons, but does not exceed 50,000 gallons, per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 10,000 pounds, but does not exceed 100,000 pounds, per calendar month.

(C) The total facility storage design capacity is greater than 50,000 gallons, but does not exceed 500,000 gallons, for liquid hazardous waste.

(D) The total facility storage design capacity is greater than 100,000 pounds, but does not exceed 500 tons, for solid hazardous waste.

(3) ''Series C standardized permit'' means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not conduct thermal treatment of hazardous waste, with the exception of evaporation, and that either meets the requirements of paragraph (3) of subdivision (g) or meets all of the following conditions:

(A) The total influent volume of liquid hazardous waste treated does not exceed 5,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated does not exceed 10,000 pounds per calendar month.

(C) The total facility storage design capacity does not exceed 50,000 gallons for liquid hazardous waste.

(D) The total facility storage design capacity does not exceed 100,000 pounds for solid hazardous waste.

(b) The department shall adopt regulations specifying standardized hazardous waste facilities permit application forms that may be completed by a non-RCRA Series A, B, or C treatment, storage, or treatment and storage facility, in lieu of other hazardous waste facilities permit application procedures set forth in regulations. The department shall not issue permits under this section to specific classes of facilities unless the department finds that doing so will not create a competitive disadvantage to a member or members of that class that were in compliance with the permitting requirements which were in effect on September 1, 1992.

(c) The regulations adopted pursuant to subdivision (b) shall include all of the following:

(1) Require that the standardized permit notification be submitted to the department on or before October 1, 1993, for facilities existing on or before September 1, 1992, except for facilities specified in paragraphs (2) and (3) of subdivision (g). The standardized permit notification shall include, at a minimum, the information required for a Part A application as described in the regulations adopted by the department.

(2) Require that the standardized permit application be submitted to the department within six months of the submittal of the standardized permit notification. The standardized permit application shall require, at a minimum, that the following information be submitted to the department for review prior to the final permit determination:

(A) A description of the treatment and storage activities to be covered by the permit, including the type and volumes of waste, the treatment process, equipment description, and design capacity.

(B) A copy of the closure plan as required by paragraph (13) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(C) A description of the corrective action program, as required by Section 25200.10.

(D) Financial responsibility documents specified in paragraph (17) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(E) A copy of the topographical map as specified in paragraph (18) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(F) A description of the individual container, and tank and containment system, and of the engineer's certification, as specified in Sections 66270.15 and 66270.16 of Title 22 of the California Code of Regulations.

(G) Documentation of compliance, if applicable, with the requirements of Article 8.7 (commencing with Section 25199).

(3) Require that a facility operating pursuant to a standardized permit comply with the liability assurance requirements in Section 25200.1.

(4) Specify which of the remaining elements of the permit application, as described in subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations, shall be the subject of a certification of compliance by the applicant.

(5) Establish a procedure for imposing an administrative penalty pursuant to Section 25187, in addition to any other penalties provided by this chapter, upon an owner or operator of a treatment or storage facility that is required to obtain a hazardous waste facilities permit and that meets the criteria for a Series A, B, or C permit listed in subdivision (a), who does not submit a standardized permit notification to the department on or before the submittal deadline specified in paragraph (1) or the submittal deadline specified in paragraph (2) or (3) of subdivision (g), whichever date is applicable, and who continues to operate the facility without obtaining a hazardous waste facilities permit or other grant of authorization from the department after the applicable deadline for submitting the notification to the department. In determining the amount of the administrative penalty to be assessed, the regulations shall require the amount to be based upon the economic benefit gained by that owner or operator as a result of failing to comply with this section.

(6) Require that a facility operating pursuant to a standardized permit comply, at a minimum, with the interim status facility operating requirements specified in the regulations adopted by the department, except that the regulations adopted pursuant to this section may specify financial assurance amounts necessary to adequately respond to damage claims at levels that are less than those required for interim status

facilities if the department determines that lower financial assurance levels are appropriate.

(d) (1) Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) On and before January 1, 1995, the adoption of the regulations pursuant to paragraph (1) is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(e) The department may not grant a permit under this section unless the department has determined the adequacy of the material submitted with the application and has conducted an inspection of the facility and determined all of the following:

(1) The treatment process is an effective method of treating the waste, as described in the permit application.

(2) The corrective action plan is appropriate for the facility.

(3) The financial assurance is sufficient for the facility.

(f) (1) Interim status shall not be granted to a facility that does not submit a standardized permit notification on or before October 1, 1993, unless the facility is subject to paragraph (2) or (3) of subdivision (g).

(2) Interim status shall be revoked if the permit application is not submitted within six months of the permit notification.

(3) Interim status granted to any facility pursuant to this section and Sections 25200.5 and 25200.9 shall terminate upon a final permit determination or January 1, 1998, whichever date is earlier. This paragraph shall apply retroactively to facilities for which a final permit determination is made on or after September 30, 1995.

(4) A treatment, storage, or treatment and storage facility operating pursuant to interim status that applies for a permit pursuant to this section shall pay fees to the department in an amount equal to the fees established by subdivision (e) of Section 25205.4 for the same size and type of facility.

(g) (1) Except as provided in paragraphs (2), (3), and (4), a facility treating used oil or solvents, or which engages in incineration, thermal destruction, or any land disposal activity, is not eligible for a standardized permit pursuant to this section.

(2) (A) Notwithstanding paragraph (1), an offsite facility treating solvents is eligible for a standardized permit pursuant to this section if all of the following conditions are met:

(i) The facility exclusively treats solvent wastes, and is not required to obtain a permit pursuant to the federal act.

(ii) The solvent wastes that the facility treats are only the types of solvents generated from dry cleaning operations.

(iii) Ninety percent or more of the solvents that the facility receives are from dry cleaning operations.

(iv) Ninety percent or more of the solvents that the facility receives are recycled and sold by the facility, excluding recycling for energy recovery, provided that the facility does not produce more than 15,000 gallons per month of recycled solvents.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1995, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1995.

(C) A facility treating solvents pursuant to this paragraph shall clearly label all recycled solvents as recycled prior to subsequent sale or distribution.

(D) Notwithstanding that a facility eligible for a standardized permit pursuant to this paragraph meets the eligibility requirements for a Series C standardized permit specified in paragraph (3) of subdivision (a), the facility shall obtain and meet the requirements for a Series B standardized permit specified in paragraph (2) of subdivision (a).

(E) Notwithstanding any other provision of this chapter, for purposes of this paragraph, if the recycled material is to be used for dry cleaning, ''recycled'' means the removal of water and inhibitors from waste solvent and the production of dry cleaning solvent with an appropriate inhibitor for dry cleaning use. The removal of inhibitors is not required if all of the solvents received by the facility that are recycled for dry cleaning use are from dry cleaners.

(3) (A) Notwithstanding paragraph (1), an owner or operator with a surface impoundment used only to contain non-RCRA wastes generated onsite, that holds those wastes for not more than one 30-day period in any calendar year, and that meets the criteria specified in paragraphs (i) to (iii), inclusive, may submit a Series C standardized permit application to the department. A surface impoundment is eligible for operation under the Series C standardized permit tier if all of the following requirements are met:

(i) The waste and any residual materials are removed from the surface impoundment within 30 days of the date the waste was first placed into the surface impoundment.

(ii) The owner or operator has, and is in compliance with, current waste discharge requirements issued by the appropriate California regional water quality control board for the surface impoundment.

(iii) The owner or operator complies with all applicable groundwater monitoring requirements of the regulations adopted by the department pursuant to this chapter.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1996, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1996.

(4) For purposes of this subdivision, treating solvents and thermal destruction do not include the incidental destruction of small amounts of nonmetal constituents in a thermal treatment unit that is operated solely for the purpose of the recovery of precious metals, if that unit is operating pursuant to a standardized permit issued by the department.

(h) Facilities operating pursuant to this section shall comply with Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations.

(i) (1) The department shall require an owner or operator applying for a standardized permit to complete and file a phase I environmental assessment with the application. However, if a RCRA facility assessment has been performed by the department, the assessment shall be deemed to satisfy the requirement of this subdivision to complete and file a phase I environmental assessment, and the facility shall not be required to submit a phase I environmental assessment with its application.

(2) (A) For purposes of this subdivision, the phase I environmental assessment shall include a preliminary site assessment, as described in subdivision (a) of Section 25200.14, except that the phase I environmental assessment shall also include a certification, signed, except as provided in subparagraph (B), by the owner, and also by the operator if the operator is not the owner, of the facility and an independent professional engineer, geologist, or environmental assessor registered in the state.

(B) Notwithstanding subparagraph (A), the certification for a permanent household waste collection facility may be signed by any professional engineer, geologist, or environmental assessor registered in the state, including, but not limited to, such a person employed by the governmental entity, but if the facility owner is not a governmental entity, the engineer, geologist, or assessor signing the certification shall not be employed by, or be an agent of, the facility owner.

(3) The certification specified in paragraph (2) shall state whether evidence of a release of hazardous waste or hazardous constituents has been found.

(4) If evidence of a release has been found, the facility shall complete a detailed site assessment to determine the nature and extent of any contamination resulting from the release and shall submit a corrective action plan to the department, within one year of submittal of the standardized permit application.

(j) The department shall establish an inspection program to identify, inspect, and bring into compliance any treatment, storage, or treatment and storage facility which is eligible for, and is required to obtain, a standardized hazardous waste facilities permit pursuant to this section, and which is operating without a permit or other grant of authorization from the department for that treatment or storage activity.

(k) A treatment, storage, or treatment and storage facility authorized to operate pursuant to a hazardous waste facilities permit issued pursuant to Section 25200, which meets the criteria listed in subdivision (a) for a standardized permit, may operate pursuant to a Series A, B, or C standardized permit by completing the appropriate permit modification procedure specified in the regulations for such a modification.

SEC. 13. Section 25201.15 of the Health and Safety Code is amended to read:

25201.15. (a) For the purposes of this section, the following terms have the following meaning:

(1) ''Biotechnology manufacturing or biotechnology process development activities'' means activities conducted in SIC Code subgroups 283, 2833, 2834, 2835, 2836, 8731, 8732, and 8733, including manufacturing and process development of medicinal chemicals and botanical products, pharmaceutical preparations, in vitro and in vivo diagnostic substances, and biological products, and all associated equipment and vessel cleaning and maintenance operations.

(2) ''Biotechnology elementary neutralization activities'' means the elementary neutralization of wastes generated by biotechnology manufacturing or biotechnology process development activities.

(3) ''SIC Code'' has the same meaning as defined in subdivision (u) of Section 25501.

(b) The Legislature hereby finds and declares that the biotechnology industry's elementary neutralization of hazardous wastes is a common, safe, and standard practice that typically occurs in a wastewater collection system, and that does not warrant extensive regulatory oversight.

(c) Biotechnology elementary neutralization activities are exempt from any requirement imposed pursuant to this chapter, including any regulation adopted pursuant to this chapter, that relates to generators, tanks, and tank systems, and the requirement to obtain a hazardous waste facilities permit or other grant of authorization from the department, except as otherwise provided in subdivision (d), if all of the following conditions are met:

(1) A permit is not required to conduct elementary neutralization under the federal act.

(2) The hazardous wastes are hazardous solely due to acidic or alkaline materials, and are generated by biotechnology process manufacturing or biotechnology process development activities.

(3) Either of the following applies with regard to the biotechnology elementary neutralization activity:

(A) The hazardous wastes in the elementary neutralization unit do not contain more than 10 percent by weight acid or alkaline constituents.

(B) The generator of the hazardous wastes determines that the elementary neutralization process will not raise the temperature of the hazardous wastes to within 10 degrees of the boiling point or cause the release of hazardous gaseous emissions, using either constituent-specific concentration limits or calculations. The generator shall make these calculations in accordance with the regulations adopted by the department, if the department adopts those regulations.

(4) The hazardous wastes are not diluted for the sole purpose of meeting the criteria specified in subparagraph (A) of paragraph (3) and after neutralization the wastewaters do not exhibit the characteristic of corrosivity, as defined in Section 66261.22 of Title 22 of the California Code of Regulations, or any successor regulation.

(5) The temperature of any unit 100 gallons or larger is automatically monitored, and is fitted with a high temperature alarm system, and for closed systems, the unit automatically controls the adding and mixing of corrosive and neutralizing solutions.

(d) The operator of an elementary neutralization unit exempt under this section shall comply with the following requirements:

(1) An operator of an elementary neutralization unit subject to this section shall successfully complete a program of classroom instruction or on-the-job training that includes, at a minimum, instruction for responding effectively to emergencies by familiarizing personnel with emergency procedures, emergency equipment, and emergency systems, including, where applicable, procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment, communications, or alarm systems.

(2) Within 10 days of commencing initial operation of the unit, or within any other time period that may be required by the CUPA, the operator shall notify the CUPA of the commencement of operation of the unit under the exemption made pursuant to this section. If the operator is not under the jurisdiction of a CUPA, the notice shall be sent to the officer of the agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (2) of subdivision (c) of Section 25404.

(e) Notwithstanding any other provision of law, unless required by federal law, biotechnology elementary neutralization activities satisfying the requirements of subdivisions (c) and (d) are exempt from

any statute or any regulation adopted pursuant to state law requiring the elementary neutralization unit to have secondary containment for piping or ancillary equipment, including, but not limited to, a regulation adopted by the State Water Resources Control Board, the department, or any other state agency.

SEC. 13.5. Section 25244.15 of the Health and Safety Code is amended to read:

25244.15. (a) The department shall establish a program for hazardous waste source reduction pursuant to this article.

(b) The department shall coordinate the activities of all state agencies with responsibilities and duties relating to hazardous waste and shall promote coordinated efforts to encourage the reduction of hazardous waste. Coordination between the program and other relevant state agencies and programs shall, to the fullest extent possible, include joint planning processes and joint research and studies.

(c) The department shall adopt regulations to carry out this article.

(d) (1) Except as provided in paragraph (3), this article applies only to generators who, by site, routinely generate, through ongoing processes and operations, more than 12,000 kilograms of hazardous waste in a calendar year, or more than 12 kilograms of extremely hazardous waste in a calendar year.

(2) The department shall adopt regulations to establish procedures for exempting generators from the requirements of this article where the department determines that no source reduction opportunities exist for the generator.

(3) Notwithstanding paragraph (1), this article does not apply to any generator whose hazardous waste generating activity consists solely of receiving offsite hazardous wastes and generating residuals from the processing of those hazardous wastes.

SEC. 14. Section 25244.19 of the Health and Safety Code is amended to read:

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

(b) Except as provided in subdivision (c), the source reduction evaluation review and plan required by subdivision (a) shall be conducted and completed for each site pursuant to the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include, at a minimum, all of the following:

(1) The name and location of the site.

(2) The SIC Code of the site.

(3) Identification of all routinely generated hazardous waste streams that annually weigh 600 kilograms or more and that result from ongoing processes or operations and exceed 5 percent of the total yearly weight

of hazardous waste generated at the site, or, for extremely hazardous waste, that annually weigh 0.6 kilograms or more and exceed 5 percent of the total yearly weight of extremely hazardous waste generated at the site. For purposes of this paragraph, a hazardous waste stream identified pursuant to this paragraph shall also meet one of the following criteria:

(A) It is a hazardous waste stream processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following).

(B) It is a hazardous waste stream that is not processed in a wastewater treatment unit and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.

(B) An evaluation of source reduction approaches available to the generator that are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.

(iv) Product reformulation.

(5) A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures that will be taken by the generator with respect to each hazardous waste stream identified in paragraph (3). The review and plan shall fully document any statement explaining the generator's rationale for rejecting any available source reduction approach identified in paragraph (4).

(6) An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to air, water, or land.

(7) A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures specified in paragraph (5).

(8) Certification pursuant to subdivision (d).

(9) Any generator subject to this article shall include in its source reduction evaluation review and plan four-year numerical goals for reducing the generation of hazardous waste streams through the approaches provided for in subparagraph (B) of paragraph (4), based upon its best estimate of what is achievable in that four-year period.

(10) A summary progress report that briefly summarizes and, to the extent practicable, quantifies, in a manner that is understandable to the

general public, the results of implementing the source reduction methods identified in the generator's review and plan for each waste stream addressed by the previous plan over the previous four years. The report shall also include an estimate of the amount of reduction that the generator anticipates will be achieved by the implementation of source reduction methods during the period between the preparation of the review and plan and the preparation of the generator's next review and plan. Notwithstanding any other provision of this section, the summary progress report required to be prepared pursuant to this paragraph shall be submitted to the department on or before September 1, 1999, and every four years thereafter.

(c) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite review and plan addressing all of these sites.

(d) Every review and plan conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who is registered pursuant to Section 25570.3 and who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the review and plan only if the review and plan meet all of the following requirements:

(1) The review and plan addresses each hazardous waste stream identified pursuant to paragraph (3) of subdivision (b).

(2) The review and plan addresses the source reduction approaches specified in subparagraph (B) of paragraph (4) of subdivision (b).

(3) The review and plan clearly sets forth the measures to be taken with respect to each hazardous waste stream for which source reduction has been found to be technically feasible and economically practicable, with timetables for making reasonable and measurable progress, and properly documents the rationale for rejecting available source reduction measures.

(4) The review and plan does not merely shift hazardous waste from one environmental medium to another environmental medium by increasing emissions or discharges to air, water, or land.

(e) At the time a review and plan is submitted to the department or the unified program agency, the generator shall certify that the generator has implemented, is implementing, or will be implementing, the source reduction measures identified in the review and plan in accordance with the implementation schedule contained in the review and plan. A generator may determine not to implement a measure selected in paragraph (5) of subdivision (b) only if the generator determines, upon

conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following:

(1) An increase in the generation of hazardous waste.

(2) An increase in the release of hazardous chemicals to other environmental media.

(3) Adverse impacts on product quality.

(4) A significant increase in the risk of an adverse impact to human health or the environment.

(f) If the generator elects not to implement the review and plan, including, but not limited to, a selected measure pursuant to subdivision (e), the generator shall amend its review and plan to reflect that election and include in the review and plan proper documentation identifying the rationale for that election.

SEC. 15. Section 25244.20 of the Health and Safety Code is amended to read:

25244.20. (a) On or before September 1, 1991, and every four years thereafter, each generator shall prepare a hazardous waste management performance report documenting hazardous waste management approaches implemented by the generator.

(b) Except as provided in subdivision (d), the hazardous waste management performance report required by subdivision (a) shall be prepared for each site in accordance with the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include all of the following:

(1) The name and location of the site.

(2) The SIC Code for the site.

(3) All of the following information for each waste stream identified pursuant to paragraph (3) of subdivision (b) of Section 25244.19:

(A) An estimate of the quantity of hazardous waste generated and the quantity of hazardous waste managed, both onsite and offsite, during the current reporting year and the baseline year, as specified in subdivision (c).

(B) An abstract for each source reduction, recycling, or treatment technology implemented from the baseline year through the current reporting year, if the reporting year is different from the baseline year.

(C) A description of factors during the current reporting year that have affected hazardous waste generation and onsite and offsite hazardous waste management since the baseline year, including, but not limited to, any of the following:

(i) Changes in business activity.

(ii) Changes in waste classification.

(iii) Natural phenomena.

(iv) Other factors that have affected either the quantity of hazardous waste generated or onsite and offsite hazardous waste management requirements.

(4) The certification of the report pursuant to subdivision (e).

(c) For purposes of subdivision (b), the following definitions apply:

(1) The current reporting year is the calendar year immediately preceding the year in which the report is to be prepared.

(2) The baseline year is either of the following, whichever is applicable:

(A) For the initial report, the baseline year is the calendar year selected by the generator for which substantial hazardous waste generation, or onsite or offsite management, data is available prior to 1991.

(B) For all subsequent reports, the baseline year is the current reporting year of the immediately preceding report.

(d) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite report addressing all of these sites.

(e) Every report completed pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who is registered pursuant to Section 25570.3 and who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the report only if the report identifies factors that affect the generation and onsite and offsite management of hazardous wastes and summarizes the effect of those factors on the generation and onsite and offsite management of hazardous wastes.

SEC. 16. Section 25250.27 is added to the Health and Safety Code, to read:

25250.27. (a) Nothing in this article prohibits a generator from managing and transporting used oil, to the extent consistent with federal law, in accordance with Sections 25110.10, 25121.3, and 25163.3, if the generator meets the requirements specified in Sections 25110.10, 25121.3, and 25163.3.

(b) This section does not constitute a change in, but is declaratory of, existing law.

SEC. 17. Section 25420 of the Health and Safety Code is amended to read:

25420. For purposes of this chapter, the following definitions apply:

(a) ''Department'' means the Department of Toxic Substances Control.

(b) ''Gas corporation'' has the same meaning as defined in Section 222 of the Public Utilities Code and is subject to rate regulation by the Public Utilities Commission.

(c) ''Person'' means an individual, trust, firm, joint stock company, partnership, association, business concern, limited liability company, or corporation. ''Person'' also includes any city, county, district, and the state or any department or agency thereof, or the federal government or any department or agency thereof to the extent permitted by law.

SEC. 18. Section 41805.5 of the Health and Safety Code is amended to read:

41805.5. (a) Except as provided in subdivisions (b) and (c), the operator of a solid waste disposal site shall submit to the district on or before July 1, 1987, a solid waste air quality assessment test report that contains all of the following:

(1) Test results to determine if there is any underground landfill gas migration beyond the solid waste disposal site's perimeter.

(2) Analyses for specified air contaminants in the ambient air adjacent to the solid waste disposal site to determine the effect of the site on air quality.

(3) Chemical characterization test results to determine the composition of gas streams immediately above the solid waste disposal site, or immediately above the solid waste disposal site and within the solid waste disposal site, as appropriate, as determined by the district.

(4) Any other information that the district board requires, by emergency regulation.

The solid waste air quality assessment test report shall be prepared in accordance with the guidelines developed by the state board pursuant to subdivision (d).

(b) The operator of an inactive solid waste disposal site shall complete and submit the screening questionnaire, developed pursuant to subdivision (e), to the district on or before November 1, 1986, unless the operator is required to submit a report containing the same information specified in subdivision (a) pursuant to a federal, state, or district order, or unless exempted pursuant to subdivision (c). The district shall evaluate the submitted screening questionnaires in accordance with the guidelines developed pursuant to subdivision (e) and shall determine whether the operator of the site is required to submit all, or a portion of, the information required to be reported in a solid waste air quality assessment test report. The district shall notify the operator in writing on or before January 1, 1987, of the information identified in subdivision (a) to be submitted for the site. After receiving this notification, the operator of the inactive solid waste disposal site shall submit a solid

waste air quality assessment test report containing the required information on or before January 1, 1988, to the district.

(c) A district may exempt from subdivisions (a) and (b) a solid waste disposal site or inactive solid waste disposal site that has accepted or now contains only inert and nondecomposable solids. To receive an exemption, the operator of the site shall submit, on or before November 1, 1986, a copy of all permits, all waste discharge requirements pertinent to the site, and any other data necessary for the district to determine whether an exemption should be granted to the site.

(d) On or before February 1, 1987, the state board, in coordination with the districts, shall develop and publish test guidelines for the solid waste air quality assessment report specifying the air contaminants to be tested for and identifying acceptable testing, analytical, and reporting methods to be employed in completing the report.

(e) On or before October 1, 1986, the state board, in coordination with the districts, shall develop and publish a screening questionnaire for inactive solid waste disposal sites and guidelines for evaluating the questionnaire by the districts pursuant to subdivision (b). The screening questionnaire and guidelines shall require an inactive solid waste disposal site to be evaluated based on the nature and age of materials in the site, the quantity of materials in the site, the size of the site, and other appropriate factors. The guidelines for evaluating the screening questionnaire shall require a district to weigh heavily the proximity of the site to residences, schools, and other sensitive areas, and to pay particular attention to potential adverse impacts on facilities such as hospitals and schools, and on residential areas, within one mile of the site's perimeter.

(f) A district may reevaluate the status of a solid waste disposal site, including sites exempted pursuant to subdivision (c), and require the operator to submit or revise a solid waste air quality assessment test report after January 1, 1987. The district shall give written notification to the operator of the solid waste disposal site that a solid waste air quality assessment test report is to be submitted, or that the existing report is to be revised, and the date by which the report is to be submitted.

(g) A district shall evaluate any solid waste air quality assessment test reports submitted pursuant to subdivisions (a), (b), and (f), and determine if the report's testing, analytical, and reporting methods comply with the guidelines developed pursuant to subdivision (d). If the district determines that the solid waste air quality assessment test report complies with the guidelines, it shall evaluate the data. If the district determines, after evaluation of the report and consultation with the state department and the California Integrated Waste Management Board, that levels of one or more specified air contaminants pose a health risk to

human beings or a threat to the environment, the district shall take appropriate remedial action.

(h) If a district determines that a solid waste air quality assessment test report does not comply with the guidelines developed pursuant to subdivision (d), the district shall provide the operator of the site with a written notice specifying the inadequacies of the report and shall require the operator to correct the deficiencies and resubmit the report by a date determined by the district.

(i) For the purpose of this section, the following definitions apply:

(1) ''Inactive solid waste disposal site'' means a solid waste disposal site that has not received any solid waste for disposal after January 1, 1984.

(2) ''Landfill gas'' means any untreated, raw gas derived through a natural process from the decomposition of organic waste deposited in a solid waste disposal site or from the evolution of volatile species in the waste.

(3) ''Operator'' means the person who operates or manages, or who has operated or managed, the solid waste disposal site. If the operator of the solid waste disposal site no longer exists, or is unable, as determined by the district, to comply with the requirements of this section, ''operator'' means any person who owns or who has owned the solid waste disposal site.

(4) ''Perimeter'' means the outer boundary of the entire solid waste disposal site property.

(5) ''Solid waste disposal site'' means a place, location, tract of land, area, or premises in use, or which has been used, for the landfill disposal of solid waste, as defined in Section 40191 of the Public Resources Code, or hazardous waste, as defined in Section 40141 of the Public Resources Code, or both.

(6) ''Specified air contaminants'' means substances determined to be air contaminants by the state board in coordination with the districts. The state board and the districts shall consider determining the following compounds to be air contaminants for purposes of this paragraph: benzene, chloroethene, 1,2-dibromoethane, 1,2-dichloroethane benzyl chloride, chlorobenzene, dichlorobenzene, 1,1-dichloroethene, dichloromethane, formaldehyde, hydrogen sulfide, tetrachloroethylene, tetrachloromethane, toluene, 1,1,1-trichloroethan e, trichloroethylene, trichloromethane, xylene, and any other substance deemed appropriate by the state board or a district.

SEC. 19. Section 41982 of the Health and Safety Code is amended to read:

41982. The state board shall, after completing the study referred to in Section 41981, in consultation with the affected districts, the Department of Toxic Substances Control, and the Office of

Environmental Health Hazard Assessment, and after public hearings, establish guidelines for the issuance of permits by the districts for the incineration of toxic waste materials. The guidelines shall take into consideration factors including, but not limited to, the following:

(a) The characteristics of the toxic waste materials to be incinerated.

(b) The methods or equipment available to minimize or eliminate the emission of air contaminants.

(c) The applicable federal standards, including, but not limited to, the regulations in Part 264 of Title 40 of the Code of Federal Regulations (40 CFR 264) concerning standards for owners and operators of hazardous waste treatment, storage, and disposal facilities. Where the guidelines deviate from the adopted federal standards, the reason for the difference shall be noted by the state board.

SEC. 20. Section 41983 of the Health and Safety Code is amended to read:

41983. (a) This article shall not be construed as preventing any district from establishing permit criteria more stringent than the guidelines specified in Section 41982.

(b) This article shall not be construed as limiting the authority of the Department of Toxic Substances Control concerning hazardous waste control (Chapter 6.5 (commencing with Section 25100) of Division 20), or any regulations adopted pursuant to those provisions.

SEC. 21. Section 3460 of the Public Resources Code is amended to read:

3460. (a) As used in this article:

(1) ''Used oil'' has the same meaning as defined in subdivision (a) of Section 25250.1 of the Health and Safety Code.

(2) ''Recycle'' means to prepare used oil for reuse as a petroleum product by refining, reclaiming, reprocessing, or other means, in order to attain the standards specified by paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code. ''Recycle'' does not include the application of used oil to roads for the purpose of dust control or to the ground for the purpose of weed abatement. ''Recycle'' does not include incineration or burning of used oil as a fuel.

(3) ''Board'' means the California Integrated Waste Management Board.

(4) ''Person'' means any individual, private or public corporation, partnership, limited liability company, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

(b) The amendments made to this section by Chapter 1123 of the Statutes of 1987 do not affect the validity of any existing regulations of the Department of Toxic Substances Control relating to the management of used oil blended or diluted with virgin oil or any partially refined oil

product as a hazardous waste, and do not affect the authority of the Department of Toxic Substances Control to prohibit blending or diluting used oil with an uncontaminated product to achieve the standards for recycled oil, as specified in paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

SEC. 22. Section 3470 of the Public Resources Code is amended to read:

3470. (a) All rules and regulations of the board shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board shall coordinate activities and functions with all other state agencies, including, but not limited to, the Department of Toxic Substances Control, the Department of Water Resources, and the State Water Resources Control Board, in order to avoid duplication in reporting and information gathering.

SEC. 23. Section 30420 of the Public Resources Code is amended to read:

30420. Prior to taking any action on (1) a local coastal program or any amendment thereto, (2) any coastal development permit, or (3) any consistency determination or certification, that relates to the disposal of hazardous substances at sea, the commission shall consult with the following governmental entities:

(a) Department of Toxic Substances Control.

(b) State Lands Commission.

(c) State Air Resources Board and relevant air pollution control districts or air quality management districts.

(d) Department of Fish and Game.

(e) State Water Resources Control Board and relevant California regional water quality control boards.

(f) Secretary for Environmental Protection.

(g) Governor's Office of Planning and Research.

(h) The local government located closest to the proposed activity, or within whose jurisdiction the activity is proposed, or within whose jurisdiction there may be effects of the proposed activity.

SEC. 24. Section 43308 of the Public Resources Code is amended to read:

43308. For those facilities that accept only hazardous wastes and to which Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code applies, or that accept only low-level radioactive wastes and to which Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code applies, or for those facilities that accept both, the board shall have no enforcement or regulatory authority. Except as otherwise provided in

Section 40052, all enforcement activities for those facilities relative to the control of hazardous wastes shall be performed by the Department of Toxic Substances Control pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code, and all enforcement activities for those facilities relative to low-level radioactive wastes shall be performed by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

SEC. 25. Section 44103 of the Public Resources Code is amended to read:

44103. (a) For those facilities that accept only hazardous wastes, or that accept only low-level radioactive wastes, or that accept both, a solid waste facilities permit issued by the enforcement agency is not required. A single hazardous waste facilities permit or low-level radioactive waste facilities permit issued by the Department of Toxic Substances Control pursuant to Article 9 (commencing with Section 25200) of Chapter 6.5 of Division 20 of the Health and Safety Code, or by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code shall be the only waste facilities permit or permits necessary for the use and operation of hazardous waste or low-level radioactive waste disposal facilities.

(b) For those facilities that accept both hazardous wastes and other solid wastes, two permits shall be required, as follows:

(1) The hazardous waste facilities permit issued by the Department of Toxic Substances Control pursuant to Article 9 (commencing with Section 25200) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(2) The solid waste facilities permit issued by the enforcement agency pursuant to this chapter.

(c) Nothing in this section limits or supersedes any other permit or licensing requirements imposed by other provisions of law.

SEC. 26. Section 13273 of the Water Code is amended to read:

13273. (a) The state board shall, on or before January 1, 1986, rank all solid waste disposal sites, as defined in paragraph (5) of subdivision (i) of Section 41805.5 of the Health and Safety Code, based upon the threat they may pose to water quality. On or before July 1, 1987, the operators of the first 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d). On or before July 1 of each succeeding year, the operators of the next 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d).

(b) Before a solid waste water quality assessment test report may be submitted to the regional board, a registered geologist, registered pursuant to Section 7850 of the Business and Professions Code, a certified engineering geologist, certified pursuant to Section 7842 of the Business and Professions Code, or a civil engineer registered pursuant to Section 6762 of the Business and Professions Code, who has at least five years' experience in groundwater hydrology, shall certify that the report contains all of the following information and any other information which the state board may, by regulation, require:

(1) An analysis of the surface and groundwater on, under, and within one mile of the solid waste disposal site to provide a reliable indication whether there is any leakage of hazardous waste.

(2) A chemical characterization of the soil-pore liquid in those areas which are likely to be affected if the solid waste disposal site is leaking, as compared to geologically similar areas near the solid waste disposal site which have not been affected by leakage or waste discharge.

(c) If the regional board determines that the information specified in paragraph (1) or (2) is not needed because other information demonstrates that hazardous wastes are migrating into the water, the regional board may waive the requirement to submit this information specified in paragraphs (1) and (2) of subdivision (b). The regional board shall also notify the Department of Toxic Substances Control, and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(d) The regional board shall examine the report submitted pursuant to subdivision (b) and determine whether the number, location, and design of the wells and the soil testing could detect any leachate buildup, leachate migration, or hazardous waste migration. If the regional board determines that the monitoring program could detect the leachate and hazardous waste, the regional board shall take the action specified in subdivision (e). If the regional board determines that the monitoring program was inadequate, the regional board shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(e) The regional board shall examine the approved solid waste assessment test report and determine whether any hazardous waste migrated into the water. If the regional board determines that hazardous waste has migrated into the water, it shall notify the Department of Toxic Substances Control and the California Integrated Waste Management Board and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(f) When a regional board revises the waste discharge requirements for a solid waste disposal site, the regional board shall consider the

information provided in the solid waste assessment test report and any other relevant site-specific engineering data provided by the site operator for that solid waste disposal site as part of a report of waste discharge.

SEC. 27. 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 344

An act to add Section 22456 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 22456 is added to the Vehicle Code, to read:

22456. (a) This section shall be known and may be cited as the Destiny Nicole Stout Memorial Act.

(b) The Legislature finds and declares that motor vehicles engaged in vending ice cream and similar food items in residential neighborhoods can increase the danger to children, and it is necessary that these vehicles are clearly seen and noticed by motorists and pedestrians to protect public safety.

(c) As used in this section, the term ''ice cream truck'' means a motor vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under 12 years of age.

(d) Any ice cream truck shall be equipped at all times, while engaged in vending in a residential area, with signs mounted on both the front and the rear and clearly legible from a distance of 100 feet under daylight conditions, incorporating the words ''WARNING'' and ''CHILDREN CROSSING.'' Each sign shall be at least 12 inches high by 48 inches wide, with letters of a dark color and at least four inches in height, a one-inch wide solid border, and a sharply contrasting background.

(e) A person may not vend from an ice cream truck that is stopped, parked, or standing on any public street, alley, or highway under any of the following conditions:

(1) On a street, alley, or highway with a posted speed limit greater than 25 miles per hour.

(2) If the street, alley, or highway is within 100 feet of an intersection with an opposing highway that has a posted speed limit greater than 25 miles per hour.

(3) If the vendor does not have an unobstructed view for 200 feet in both directions along the highway and of any traffic on the highway.

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 345

An act to amend Sections 48201 and 49079 of the Education Code, relating to pupils.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 48201 of the Education Code is amended to read:

48201. (a) Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

(b) (1) Upon a pupil's transfer from one school district to another, the school district into which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the

transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. Upon receipt of this information, the receiving school district shall inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district and shall inform the teacher of the act that resulted in that action.

(2) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this subdivision unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false or the information was provided with a reckless disregard for its truth or falsity.

(3) Any information received by a teacher pursuant to this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher.

SEC. 2. Section 49079 of the Education Code is amended to read:

49079. (a) A school district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900 or in Section 48900.2, 48900.3, 48900.4, or 48900.7 that the pupil engaged in, or is reasonably suspected to have engaged in, those acts. The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.

(b) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this section unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false, or the information was provided with a reckless disregard for its truth or falsity.

(c) An officer or employee of a school district who knowingly fails to provide information about a pupil who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision (a) is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or both.

(d) For the 1994–95 school year, the information provided shall be from the previous two school years. For the 1996–97 school year and each school year thereafter, the information provided shall be from the previous three school years.

(e) Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher.

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 346

An act to amend Section 21252 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 21252 of the Government Code is amended to read:

21252. Retirement shall be effective and the retirement allowance shall begin to accrue as of the date designated in the member's application as the effective date of retirement, or upon the day following the last day for which salary is payable if that day postdates the day designated by the person as the effective date or if the member has not designated an effective date. In no event shall the retirement become effective or the retirement allowance begin to accrue earlier than the first day of the month in which the member's application is received at an office of the board or by an employee of this system designated by the board, or, if the member has been incompetent to act on his or her own behalf continuously from the last day for which salary was payable, one year prior to the month in which an application by the guardian of his or her estate is so received. In the case of an application for retirement for disability submitted by a member who was physically or mentally incapacitated to perform duties from the date of the discontinuance of state service to the time of the application, and who files his or her retirement application with the board within nine months after discontinuance of state service, the application shall be deemed to have been filed on the last day for which the salary was payable. In the case of an application for retirement for disability filed with the board more than nine months after discontinuance of the member's state service, the effective date of the application shall be determined in accordance with

Section 20160. An application for retirement may only be filed by or for a member who is living on the date the application is actually received by this system.

CHAPTER 347

An act to add Section 1363.02 to, and to add Chapter 2.15 (commencing with Section 1339.80) to Division 2 of, the Health and Safety Code, to add Section 10604.1 to the Insurance Code, and to add Section 14016.8 to the Welfare and Institutions Code, relating to health care coverage.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Chapter 2.15 (commencing with Section 1339.80) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 2.15. HOSPITAL AND OTHER PROVIDER REQUIREMENTS FOR DISSEMINATION OF INFORMATION RELATING TO REPRODUCTIVE HEALTH SERVICES

1339.80. Hospitals and other providers are not required to post, send, deliver, or otherwise provide the statement described in paragraph (1) of subdivision (b) of Section 1363.02, paragraph (1) of subdivision (b) of Section 10604.1 of the Insurance Code, or paragraph (1) of subdivision (b) of Section 14016.8 of the Welfare and Institutions Code.

1339.81. For purposes of this chapter, ''provider'' means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

SEC. 2. Section 1363.02 is added to the Health and Safety Code, to read:

1363.02. (a) The Legislature finds and declares that the right of every patient to receive basic information necessary to give full and informed consent is a fundamental tenet of good public health policy and has long been the established law of this state. Some hospitals and other providers do not provide a full range of reproductive health services and may prohibit or otherwise not provide sterilization, infertility treatments, abortion, or contraceptive services, including emergency contraception. It is the intent of the Legislature that every patient be

given full and complete information about the health care services available to allow patients to make well informed health care decisions.

(b) On or before July 1, 2001, a health care service plan that covers hospital, medical, and surgical benefits shall do both of the following:

(1) Include the following statement, in at least 12-point boldface type, at the beginning of each provider directory:

''Some hospitals and other providers do not provide one or more of the following services that may be covered under your plan contract and that you or your family member might need: family planning; contraceptive services, including emergency contraception; sterilization, including tubal ligation at the time of labor and delivery; infertility treatments; or abortion. You should obtain more information before you enroll. Call your prospective doctor, medical group, independent practice association, or clinic, or call the health plan at (insert the health plan's membership services number or other appropriate number that individuals can call for assistance) to ensure that you can obtain the health care services that you need.''

(2) Place the statement described in paragraph (1) in a prominent location on any provider directory posted on the health plan's website, if any, and include this statement in a conspicuous place in the plan's evidence of coverage and disclosure forms.

(c) A health care service plan shall not be required to provide the statement described in paragraph (1) of subdivision (b) in a service area in which none of the hospitals, health facilities, clinics, medical groups, or independent practice associations with which it contracts limit or restrict any of the reproductive services described in the statement.

(d) This section shall not apply to specialized health care service plans or Medicare supplement plans.

SEC. 3. Section 10604.1 is added to the Insurance Code, to read:

10604.1. (a) The Legislature finds and declares that the right of every patient to receive basic information necessary to give full and informed consent is a fundamental tenet of good public health policy and has long been the established law of this state. Some hospitals and other providers do not provide a full range of reproductive health services and may prohibit or otherwise not provide sterilization, infertility treatments, abortion, or contraceptive services, including emergency contraception. It is the intent of the Legislature that every patient be given full and complete information about the health care services available to allow patients to make well informed health care decisions.

(b) On or before July 1, 2001, every disability insurer that provides coverage for hospital, medical, or surgical benefits, and which provides

a list of network providers to prospective insureds and insureds, shall do both of the following:

(1) Include the following statement, in at least 12-point boldface type, at the beginning of each provider directory:

''Some hospitals and other providers do not provide one or more of the following services that may be covered under your policy and that you or your family member might need: family planning; contraceptive services, including emergency contraception; sterilization, including tubal ligation at the time of labor and delivery; infertility treatments; or abortion. You should obtain more information before you become a policyholder or select a network provider. Call your prospective doctor or clinic, or call the insurer at (insert the insurer's membership services number or other appropriate number that individuals can call for assistance) to ensure that you can obtain the health care services that you need.''

(2) Place the statement described in paragraph (1) in a prominent location on any provider directory posted on the insurer's website, if any, and include this statement in a conspicuous place in the insurer's evidence of coverage and disclosure forms.

(c) A disability insurer shall not be required to provide the statement described in paragraph (1) of subdivision (b) in a service area in which none of the hospitals, health facilities, clinics, medical groups, or independent practice associations with which it contracts limit or restrict any of the reproductive services described in the statement.

(d) 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.

SEC. 4. Section 14016.8 is added to the Welfare and Institutions Code, to read:

14016.8. (a) The Legislature finds and declares that the right of every patient to receive basic information necessary to give full and informed consent is a fundamental tenet of good public health policy and has long been the established law of this state. Some hospitals and other providers do not provide a full range of reproductive health services and may prohibit or otherwise not provide sterilization, infertility treatments, abortion, or contraceptive services, including emergency contraception. It is the intent of the Legislature that every patient be given full and complete information about the health care services available to allow patients to make well informed health care decisions.

(b) On or before July 1, 2001, the department shall:

(1) Ensure that all Medi-Cal beneficiaries receive the following statement by the methods described in paragraphs (2) to (6), inclusive:

''Some hospitals and other providers do not provide one or more of the following services that may be covered under your plan contract and that you or your family member might need: family planning; contraceptive services, including emergency contraception; sterilization, including tubal ligation at the time of labor and delivery; infertility treatments; or abortion. You should obtain more information before you enroll. Call your prospective doctor or clinic, or call the Medi-Cal managed care plan at (insert the plan's membership services number or other appropriate number that individuals can call for information) to ensure that you can obtain the health care services that you need.''

(2) Require that each Medi-Cal managed care plan provide the statement described in paragraph (1), in at least 12-point boldface type at the beginning of each provider directory.

(3) Require that each Medi-Cal managed care plan place the statement described in paragraph (1) in a prominent location on any provider directory posted on the plan's website, if any, and include this statement in a conspicuous place in the plan's evidence of coverage and disclosure forms, if any.

(4) Require that the statement described in paragraph (1) be included in the health care option activities described in Sections 14016.5, 14087.305, subdivision (e) of Section 14089, and paragraph (2) of subdivision (f) of Section 14408.

(5) Require each county organized health system to provide to Medi-Cal beneficiaries the statement described in paragraph (1). This statement shall be provided in writing in at least 12-point boldface type prior to enrollment, prior to selection of a primary care provider, and on an annual basis.

(6) Ensure that the statement described in paragraph (1) is provided to any other Medi-Cal managed care beneficiary who would not receive the statement under the provisions of paragraphs (2) to (5), inclusive. This statement shall be provided in writing in at least 12-point boldface type prior to enrollment, prior to selection of a primary care provider, and on an annual basis.

(c) The requirement to provide the statement described in paragraph (1) of subdivision (b) shall apply to Medi-Cal managed care programs, including, but not limited to, the following programs:

(1) In areas where the department is contracting with persons or entities that are contracting with, or governed, owned, or operated by, either a county board of supervisors or a county special commission, or a county health authority, operating under Article 2.8 (commencing with

Section 14087.5) or Article 7 (commencing with Section 14490) of Chapter 8, or Chapter 3 (commencing with Section 101675) of Part 4 of Division 101 of the Health and Safety Code.

(2) In areas specified by the director for expansion of the Medi-Cal managed care program under Section 14087.3, including where the department is contracting with prepaid health plans, including prepaid health plans that are contracting with, governed, owned, or operated by a county board of supervisors, a county special commission or county health authority authorized by Sections 14018.7, 14087.31, 14087.316, 14087.35, 14087.36, 14087.38, and 14087.9605.

(3) Where the department has entered into contracts with prepaid health plans or primary care case management providers pursuant to Article 2.9 (commencing with Section 14088) and Chapter 8 (commencing with Section 14200).

(4) Where the department or the California Medical Assistance Commission has entered into contracts with any persons or entities pursuant to Section 14087.47, Article 2.91 (commencing with Section 14089), or Article 2.97 (commencing with Section 14093).

(d) A Medi-Cal managed care plan shall not be required to provide the statement described in paragraph (1) of subdivision (b) in a service area in which none of the hospitals, health facilities, clinics, medical groups, or independent practice associations with which it contracts limit or restrict any of the reproductive services described in the statement.

(e) This section shall not apply to specialized health care service plans.

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 348

An act to amend Section 17316 of the Education Code, relating to school facilities.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 17316 of the Education Code is amended to read:

17316. (a) Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 17302 shall provide that all plans, including, but not limited to, record drawings, specifications, and estimates prepared pursuant thereto, shall be and remain the property of the school district for the purposes of repair, maintenance, renovation, modernization, or other purposes, only as they relate to the project for which the certified architect or structural engineer was retained. Nothing in this subdivision shall preclude the school district from using the plans, record drawings, specifications, or estimates related to the project for the purposes of additions, alignments, or other development on the site.

(b) The contract set forth in subdivision (a) shall not be construed to transfer or waive the certified architect's or structural engineer's copyrights over these documents, including, but not limited to, all common law, statutory, and other reserved rights, unless the certified architect or structural engineer expressly transfers or waives these rights through the written contract, including, but not limited to, a written addendum or amendment.

(c) Notwithstanding subdivision (a), if the school district proposes to reuse the plans prepared by the architect or engineer within the school district, the contract entered into between the school district and the architect or engineer shall specify the terms and conditions for the reuse.

CHAPTER 349

An act to amend Section 85320 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 85320 of the Government Code is amended to read:

85320. (a) No foreign government or foreign principal shall make, directly or through any other person, any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(b) No person and no committee shall solicit or accept a contribution from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(c) For the purposes of this section, a ''foreign principal'' includes the following:

(1) A foreign political party.

(2) A person outside the United States, unless either of the following is established:

(A) The person is an individual and a citizen of the United States.

(B) The person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States.

(3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(4) A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is neither a citizen of the United States nor a lawfully admitted permanent resident of the United States.

(d) This section shall not prohibit a contribution, expenditure, or independent expenditure made by a lawfully admitted permanent resident.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 350

An act to amend Sections 11352.1 and 101070 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 11352.1 of the Health and Safety Code is amended to read:

11352.1. (a) The Legislature hereby declares that the dispensing and furnishing of prescription drugs, controlled substances, and dangerous drugs or dangerous devices without a license poses a significant threat to the health, safety, and welfare of all persons residing in the state. It is the intent of the Legislature in enacting this provision to enhance the penalties attached to this illicit and dangerous conduct.

(b) Notwithstanding Section 4321 of the Business and Professions Code, and in addition to any other penalties provided by law, any person who knowingly and unlawfully dispenses or furnishes a dangerous drug or dangerous device, or any material represented as, or presented in lieu of, any dangerous drug or dangerous device, as defined in Section 4022 of the Business and Professions Code, or who knowingly owns, manages, or operates a business that dispenses or furnishes a dangerous drug or dangerous device or any material represented as, or presented in lieu of, any dangerous drug or dangerous device, as defined in Section 4022 of the Business and Professions Code without a license to dispense or furnish these products, shall be guilty of a misdemeanor. Upon the first conviction, each violation shall be punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, each violation shall be punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed ten thousand dollars ($10,000), or by both that fine and imprisonment.

SEC. 2. Section 101070 of the Health and Safety Code is amended to read:

101070. (a) (1) The Legislature hereby finds and declares that the dispensing or furnishing of drugs requiring a prescription pursuant to Section 11470, a controlled substance as defined in Section 4021 of the Business and Professions Code, or a dangerous drug or a dangerous device as defined in Section 4022 of the Business and Professions Code, without a license poses a significant threat to the public health, safety, and welfare of all residents of the state. In recent years, the public has become increasingly exposed to a proliferation of persons who engage in these illegal or dangerous acts.

(2) The Legislature further finds and declares that extraordinary measures are needed to control this burgeoning problem. Therefore, the occasional enlistment of local health officers in regulatory and enforcement functions normally reserved to the state is appropriate and

necessary in order to protect the health, safety, and welfare of all persons of this state.

(3) Notwithstanding the foregoing, nothing contained in this section shall be construed as limiting or supplanting the authority of the state agencies charged with the regulation of the practice of pharmacy.

(b) Whenever a local health officer determines that there exists in his or her jurisdiction any person who, without a license, is dispensing or furnishing drugs requiring a prescription pursuant to Section 111470, a controlled substance as defined in Section 4021 of the Business and Professions Code, or a dangerous drug or a dangerous device as defined in Section 4022 of the Business and Professions Code, the local health officer may take action against such person. This action shall include, but not be limited to:

(1) Receiving and investigating complaints from the public, from other licensees or from health care facilities that a person is engaging in any or all of the activity set forth in this subdivision. In conducting any investigation pursuant to this paragraph, the local health officer shall have the assistance of, and be accompanied by, a licensed pharmacist. The local health officer shall provide the Board of Pharmacy, and any other state agency charged with jurisdiction over the activity set forth in this subdivision, with a copy of all complaints received pursuant to this paragraph.

(2) Issuing an order to the person to immediately cease and desist from the unlawful activity described in this subdivision, after confirming that the person is engaging in any or all of the activity set forth in this subdivision, and determining that the person has not been convicted of engaging in that activity pursuant to Section 11352.1 or any other applicable provision of law. In issuing the order, the local health officer shall notify the person that the activity is illegal in the State of California. In the event the local health officer determines that any or all of the items described in this subdivision must be confiscated, in addition to the cease and desist order, the local health officer shall enlist the aid of local law enforcement to execute confiscation of those items.

(3) Order the closure of the business, if any, operated, managed, or owned by the person after confirming that the person is engaging in any or all of the activity set forth in this subdivision, and determining whether the person has previously been convicted of engaging in that activity pursuant to Section 11352.1 or any other applicable provision of law. If the public health officer has a reasonable suspicion that the operation of a business poses an immediate threat to public health, welfare, or safety, the business may be ordered closed immediately while the hearing described in subdivision (c) is pending. Immediate danger to the public health, welfare, or safety includes, but is not limited to, evidence that the person is providing, selling, or distributing drugs that

require a prescription, or dangerous drugs, devices, or controlled substances without a license. In the event that the local health officer determines that any or all of the items described in this subdivision must be confiscated in addition to the closure of the business, that officer shall enlist the aid of local law enforcement to execute the confiscation of those items.

(c) (1) Any person engaging in any or all of the activity described in subdivision (b) whose business is closed as a result of action by local health officer pursuant to subdivision (b) shall be entitled to a hearing to show cause why the closure was unwarranted.

(2) Whenever a local health officer orders the closure of a business pursuant to subdivision (b), the local health officer shall immediately issue to the owner a notice setting forth the acts or omissions with which the owner is charged, specifying the pertinent code section, and informing the owner of the right to a hearing, if requested, to show cause why the business should not be closed.

(3) A written request for a hearing shall be submitted by the person to the local health officer within 15 calendar days of closure. A failure to request a hearing within 15 calendar days of closure shall be deemed a waiver of the right to a hearing.

(4) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing; however, when circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the hearing process. Upon written request of the person, the hearing officer may postpone any hearing date, if circumstances warrant the postponement.

(5) The hearing officer shall issue a written notice of decision to the person within five working days following the hearing. In the event the hearing officer determines that the closure was warranted, the notice shall specify the acts or omissions with which the person is charged, and shall state that the business shall remain closed permanently. Evidence that the person engaged in any or all of the activity set forth in subdivision (b) shall constitute prima facie evidence that permanent closure is warranted. Any business still operating shall close immediately upon receipt of the written decision ordering closure.

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.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to safeguard the health and welfare of the people of this state by providing for increased regulatory and enforcement activities relating to the unauthorized practice of pharmacy at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 351

An act to add Section 24216.6 to the Education Code, relating to state teachers' retirement.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 24216.6 is added to the Education Code, to read:

24216.6. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before July 1, 2000.

(2) The member retired for service is employed by a school district to provide direct remedial instruction to pupils in grades 2 to 12, inclusive. ''Remedial instruction'' means the programs specified in Sections 37252 and 37252.5.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service shall not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section shall not apply to the compensation earned for creditable service performed by a member retired for service for a county office of education or a community college district.

CHAPTER 352

An act relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. (a) The Legislature finds and declares that it is necessary for the Fair Political Practices Commission to periodically review and improve the regulations that implement the Political Reform Act of 1974.

(b) It is the intent of the Legislature that, in order to prevent an unnecessary chilling of participation in the governmental and regulatory process by public officials of local government agencies, the Fair Political Practices Commission, as part of its Conflict of Interest Regulatory Improvement Project of 1999–2000, shall adopt regulations with respect to those officials that would accomplish all of the following:

(1) Minimize the instances of disqualification regarding governmental decisions that do not directly and materially effect an official's economic interest where it is reasonably foreseeable that the economic impact of the decision will be distributed over a broad segment of the official's jurisdiction.

(2) Clarify that the fact that holding a professional license does not of itself give rise to a disqualifying conflict of interest.

(3) Clarify that one, or more than one, industry, trade or profession is not necessarily prohibited from constituting a significant segment of the public for purposes of analyzing whether the public official of a local

government agency is effected by a decision in the same or similar manner as the ''public generally.''

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 further the purposes of the Political Reform Act of 1974 and to ensure that the broadest legitimate participation in the governmental process is available to citizens of all backgrounds, it is necessary that this act take effect immediately.

CHAPTER 353

An act to repeal and add Sections 30061, 30062, 30063, and 30064.1 of, and to repeal Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of, the Government Code, and to amend Section 6 of Chapter 100 of the Statutes of 2000, relating to law enforcement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. This act shall be known and may be cited as the Schiff-Cardenas Crime Prevention Act of 2000.

SEC. 2. Section 30061 of the Government Code, as amended by Chapter 100 of the Statutes of 2000, is repealed.

SEC. 3. Section 30061 is added to the Government Code, to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county's SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the following requirements:

(1) Five and fifteen one hundredths percent (5.15%) to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Five and fifteen one hundredths percent (5.15%) to the district attorney for criminal prosecution.

(3) Thirty-nine and seven-tenths percent (39.7%) to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance but which was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant

to this subdivision shall be deposited in a SLESF established in the city treasury.

(4) Fifty percent (50%) to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph. This plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership described in Section 749.22 of the Welfare and Institutions Code. The plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor.

(A) Juvenile justice plans shall include, but not be limited to, all of the following components:

(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.

(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.

(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders.

(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.

(B) Programs proposed to be funded shall satisfy all of the following requirements:

(i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.

(ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.

(iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.

(iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.

(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:

(i) The rate of juvenile arrests per 100,000 population.

(ii) The rate of successful completion of probation.

(iii) The rate of successful completion of restitution and court-ordered community service responsibilities.

(iv) Arrest, incarceration, and probation violation rates of program participants.

(v) Quantification of the annual per capita costs of the program.

(D) The Board of Corrections shall review plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans. The board shall approve only those plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan. The board shall offer, and provide if requested, technical assistance to any county or city and county that submits a plan not in compliance with the requirements of this paragraph. The SLESF shall only allocate funding pursuant to this paragraph upon notification from the board that a plan has been approved.

(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:

(i) Each county or city and county shall report, beginning August 15, 2001, and annually thereafter, for two years (2002 through 2003) to the county board of supervisors and the Board of Corrections, in a format specified by the Board of Corrections, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).

(ii) The Board of Corrections shall compile the local reports and, by January 15, 2002, make an interim report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph.

(iii) The Board of Corrections shall complete a final report regarding the outcomes as specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans by July 15, 2003.

(iv) The reports required by this subparagraph shall be made by the dates specified, notwithstanding Section 30064.1.

(c) Subject to subdivision (d), for each fiscal year in which the county and each city, and the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community

Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide front line law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the front line law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held in September in each year that the Legislature appropriates funds for purposes of this chapter, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund front line municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund front line municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police

Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) Funds received pursuant to subdivision (b) shall be expended in accordance with the provisions of this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(f) In the event that a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.

SEC. 4. Section 30062 of the Government Code, as amended by Chapter 100 of the Statutes of 2000, is repealed.

SEC. 5. Section 30062 is added to the Government Code, to read:

30062. (a) Except as required by paragraphs (1), (2), and (4) of subdivision (b) of Section 30061, moneys allocated from a Supplemental Law Enforcement Services Fund (SLESF) to a recipient entity shall be expended exclusively to provide front line law enforcement services. These moneys shall supplement existing services, and shall not be used to supplant any existing funding for law enforcement services provided by that entity. Moneys allocated pursuant to paragraph (4) of subdivision (b) of Section 30061 shall be used to supplement and not supplant funding by local agencies for existing services.

(b) In the Counties of Los Angeles, Orange, and San Diego only, the district attorney may, in consultation with city attorneys in the county, determine a prorated share of the moneys received by the district attorney pursuant to this section to be allocated to city attorneys in the county in each fiscal year to fund the prosecution by those city attorneys of misdemeanor violations of state law.

(c) In no event shall any moneys allocated from the county's SLESF be expended by a recipient agency to fund any of the following:

(1) Administrative overhead costs in excess of 0.5 percent of a recipient entity's SLESF allocation for that year.

(2) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (3) of subdivision (b) of Section 30061 that does not directly support front line law enforcement services.

(3) The costs of any capital project or construction project funded from moneys allocated pursuant to paragraph (4) of subdivision (b) of Section 30061.

(d) For purposes of subdivision (c), both of the following shall apply:

(1) A ''recipient agency'' or ''recipient entity'' is that entity that actually incurs the expenditures of SLESF funds allocated pursuant to paragraph (1), (2), (3), or (4) of subdivision (b) of Section 30061.

(2) Administrative overhead costs shall only be charged by the recipient entity, as defined in paragraph (1), up to 0.5 percent of its SLESF allocation.

(e) For purposes of this chapter, ''front line law enforcement services'' and ''front line municipal police services'' each include antigang, community crime prevention, and juvenile justice programs.

SEC. 6. Section 30063 of the Government Code, as amended by Chapter 100 of the Statutes of 2000, is repealed.

SEC. 7. Section 30063 is added to the Government Code, 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, at least 30 days prior to 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 August 15,

2001, and each year thereafter. The Controller shall make a copy of the summarized reports available to the Governor, the Legislature, and the Legislative Analyst's office.

(e) By March 1 of each year, the Legislative Analyst's office shall report to the Legislature on the types of expenditures made by local law enforcement agencies in the previous fiscal year pursuant to this chapter, and, to the extent feasible, on the effects of those expenditures on law enforcement and public safety.

(f) A county, a city, or a city and county that fails to submit the data required pursuant to subdivision (d) or fails to expend the SLESF moneys provided by the date specified in subdivision (e) of Section 30061 shall forfeit its allocation provided pursuant to Section 30061 for the subsequent fiscal year. The Controller shall reduce the affected county's allocation by the appropriate amount and shall identify the county, city, or city and county and the corresponding amount reduced for the affected local agency. Funds not allocated pursuant to this subdivision shall revert to the General Fund.

(g) Notwithstanding subdivision (f), if the Supplemental Law Enforcement Oversight Committee (SLEOC) fails to transmit the data to the Controller required pursuant to subdivision (d), the local law enforcement agency may submit its expenditure data directly to the Controller no later than 15 days after the date specified in subdivision (d). If the local law enforcement agency has complied with other requirements in this chapter, it shall be eligible for an allocation the subsequent fiscal year. However, the Controller shall reduce the SLESF allocation to the sheriff and district attorney and the cities represented in the SLEOC, and shall reduce the allocation to all the local law enforcement agencies that failed to provide the expenditure data within the 15 days. Funds not allocated pursuant to this subdivision shall revert to the General Fund.

SEC. 8. Section 30064.1 of the Government Code, as amended by Chapter 100 of the Statutes of 2000, is repealed.

SEC. 9. Section 30064.1 is added to the Government Code, to read:

This chapter 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. 10. Section 6 of Chapter 100 of the Statutes of 2000 is amended to read:

Sec. 6. The sum of two hundred forty-three million three hundred fifty thousand dollars ($243,350,000) is hereby appropriated from the General Fund to the Controller for the 2000–01 fiscal year for allocation as follows:

(a) Two hundred forty-two million six hundred thousand dollars ($242,600,000) to counties and cities and counties for purposes of Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of the Government Code in accordance with the proportionate share of the state's total population that resides in each county and city and county, as determined on the basis of the most recent January population estimate developed by the Department of Finance, and as adjusted to provide the grants to each law enforcement jurisdiction pursuant to Section 30061 of the Government Code. Each county or city and county share shall be deposited in the Supplemental Law Enforcement Services Fund of the county or city and county.

(b) Seven hundred fifty thousand dollars ($750,000) to the Board of Corrections for administrative expenses associated with its review of juvenile justice plans pursuant to Section 30061 of the Government Code.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the preservation and enhancement of public safety through the implementation of the provisions of this act, as they relate to Citizens Option for Public Safety programs and juvenile justice program fund expenditures, at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 354

An act to amend Section 13511 of, and to add and repeal Section 13543.5 to, the Penal Code, relating to peace officers.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 13511 of the Penal Code is amended to read:

13511. (a) In establishing standards for training, the commission shall, so far as consistent with the purposes of this chapter, permit required training to be obtained at institutions approved by the commission.

(b) In those instances where individuals have acquired prior comparable peace officer training, the commission shall, adopt regulations providing for alternative means for satisfying the training

required by Section 832.3. The commission shall charge a fee to cover administrative costs associated with the testing conducted under this subdivision.

SEC. 2. Section 13543.5 is added to the Penal Code, to read:

13543.5. (a) The commission shall issue a study and its recommendations regarding the court services investigators of the County of Los Angeles and their designation as peace officers pursuant to the provisions of this article. The study shall commence after whichever of the following occurs last:

(1) This section becomes effective.

(2) The commission has received a request for that study from an entity, including, but not limited to, the probation union of the County of Los Angeles (AFSCME, Local 685), on behalf of the court services investigators of the County of Los Angeles.

(b) The commission may charge the entity that requests the study under paragraph (2) of subdivision (a) a fee, not to exceed the actual costs of undertaking the study.

(c) The commission shall submit to the Legislature a copy of its study and recommendations prepared pursuant to subdivision (a) of Section 13542.

(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.

CHAPTER 355

An act to add Section 66201.7 to the Education Code, relating to public postsecondary education.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 66201.7 is added to the Education Code, to read:

66201.7. The Regents of the University of California are requested to, and the Trustees of the California State University shall, require each campus in their respective systems to develop a process through which a student admitted to full-time undergraduate status may apply to defer his or her enrollment for up to one academic year. The decision as to

whether to grant the deferral of the enrollment may be made, at the discretion of the affected university, on a case-by-case basis.

CHAPTER 356

An act to amend Section 1277 of the Health and Safety Code, and to amend Section 5068.5 of the Penal Code, relating to professional licensure requirements, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 1277 of the Health and Safety Code is amended to read:

1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2072 and 2073 of the Business and Professions Code, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, marriage and family therapists, pharmacists, registered nurses, and clinical social workers in the state and other governmental health facilities licensed by the state department shall not be less than for those professional personnel in health facilities under private ownership. Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of this subdivision. Additionally, the requirements of this subdivision may be waived by the state department solely for persons in the professions of psychology, marriage and family therapy or clinical social work who are gaining qualifying experience for licensure in such

profession in this state. A waiver granted pursuant to this subdivision shall not exceed three years from the date the employment commences in this state in the case of psychologists, or four years from commencement of the employment in this state in the case of marriage and family therapists and clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated except that an extension of a waiver of licensure for marriage and family therapists and clinical social workers may be granted for one additional year, based on extenuating circumstances determined by the department pursuant to subdivision (e). For persons employed as psychologists, clinical social workers, or marriage and family therapists less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers and marriage and family therapists or five years in the case of psychologists. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training. Additionally, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in marriage and family therapy who are enrolled at a school, college, or university, specified in subdivision (a) of Section 4980.40 of the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the next possible examination, subject to the one-year limit for marriage and family therapists and clinical social workers, and subject to a two-year limit for psychologists.

(c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership, including standards specifying the level of training and supervision of all unlicensed practitioners. Except for psychologists, the department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (e).

(e) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivisions (b) and (d), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.

SEC. 2. Section 5068.5 of the Penal Code is amended to read:

5068.5. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state or to supervise or provide consultation on these services in the state correctional system shall be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state.

(b) Notwithstanding Section 5068 or Section 704 of the Welfare and Institutions Code, the following persons are exempt from the requirements of subdivision (a), so long as they continue in employment in the same class and in the same department:

(1) Persons employed on January 1, 1985, as psychologists to provide diagnostic or treatment services including those persons on authorized leave but not including intermittent personnel.

(2) Persons employed on January 1, 1989, to supervise or provide consultation on the diagnostic or treatment services including persons on authorized leave but not including intermittent personnel.

(c) The requirements of subdivision (a) may be waived in order for a person to gain qualifying experience for licensure as a psychologist or

clinical social worker in this state in accordance with Section 1277 of the Health and Safety Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the termination of employment of psychologists who are currently employed by the Department of Corrections under a two-year licensure waiver, it is necessary that this act take effect immediately.

CHAPTER 357

An act to amend Section 20057 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 20057 of the Government Code is amended to read:

20057. ''Public agency'' also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State Teachers' Retirement System, and their immediate families, and employees of any credit union. For the purposes of this subdivision, ''immediate family'' means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement System. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union shall not be deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board shall not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a ''public agency'' only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(*l*) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal P.L. 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

(2) A public or private nonprofit corporation described in this subdivision shall be deemed a ''public agency'' only for purposes of this part and only with respect to the employees of the independent living center.

(3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.

(q) (1) Except as provided in paragraph (2), ''public agency'' also includes any entity formed pursuant to the Federal Job Training Partnership Act of 1982 (29 U.S.C. Sec. 1501 et seq.) or Division 8 (commencing with Section 15000) of the Unemployment Insurance Code.

(2) ''Public agency,'' for purposes of this part, does not include a private industry council as set forth in the Federal Job Training Partnership Act of 1982 (29 U.S.C. Sec. 1501 et seq.) or Division 8 (commencing with Section 15000) of the Unemployment Insurance Code.

(r) The Tahoe transportation district that is established by Article IX of Section 66801.

(s) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(t) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.

(u) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a ''public agency'' only for this purpose.

(v) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of the Education Code upon obtaining a written advisory opinion from the

United States Department of Labor as described in Section 20057.1. The auxiliary organization is a ''public agency'' only for this purpose.

(w) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a ''public agency'' only for this purpose.

CHAPTER 358

An act to amend Section 65584.6 of the Government Code, relating to housing.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 65584.6 of the Government Code is amended to read:

65584.6. (a) The County of Napa may, during its current housing element planning period, identified in Section 65588, meet up to 15 percent of its existing share of the regional housing need for lower income households, as defined in Section 65584, by committing funds for the purpose of constructing affordable housing units, and constructing those units in one or more cities within the county, only after all of the following conditions are met:

(1) An agreement has been executed between the county and the receiving city or cities, following a public hearing held by the county and the receiving city or cities to solicit public comments on the draft agreement. The agreement shall contain information sufficient to demonstrate that the county and city or cities have complied with the requirements of this section and shall also include the following:

(A) A plan and schedule for timely construction of dwelling units.

(B) Site identification by street address for the units to be developed.

(C) A statement either that the sites upon which the units will be developed were identified in the receiving city's housing element as potential sites for the development of housing for lower-income households, or that the units will be developed on previously unidentified sites.

(D) The number and percentage of the county's lower-income housing needs previously transferred, for the appropriate planning period, pursuant to this section.

(2) The council of governments that assigned the county's share receives and approves each proposed agreement to meet a portion of the county's fair share housing allocation within one or more of the cities within the county after taking into consideration the criteria of subdivision (a) of Section 65584. If the council of governments fails to take action to approve or disapprove an agreement between the county and the receiving city or cities within 45 days following the receipt of the agreement, the agreement shall be deemed approved.

(3) The city or cities in which the units are developed agree not to count the units towards their share of the region's affordable housing need.

(4) The county and the receiving city or cities, based on substantial evidence on the record, make the following findings:

(A) Adequate sites with appropriate zoning exist in the receiving city or cities to accommodate the units to be developed pursuant to this section. The agreement shall demonstrate that the city or cities have identified sufficient vacant or underutilized or vacant and underutilized sites in their housing elements to meet their existing share of regional housing need, as allocated by the council of governments pursuant to subdivision (a) of Section 65584, in addition to the sites needed to construct the units pursuant to this section.

(B) If needed, additional subsidy or financing for the construction of the units is available.

(C) The receiving city or cities have housing elements that have been found by the Department of Housing and Community Development to be in compliance with this article.

(5) If the sites upon which units are to be developed pursuant to this section were previously identified in the receiving city's housing element as potential sites for the development of housing sufficient to accommodate the receiving city's share of the lower income household need identified in its housing element, then the receiving city shall have amended its housing element to identify replacement sites by street address for housing for lower-income households. Additionally, the Department of Housing and Community Development shall have received and reviewed the amendment and found that the city's housing element continues to comply with this article.

(6) The county and receiving city or cities shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(7) For a period of five years after a transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer agreement, and information on any dwelling units actually

constructed, including the number, type, location, and affordability requirements.

(8) The receiving city demonstrates that it has met, in the current or previous housing element cycle, at least 20 percent of its share of the regional need for housing for very low-income households allocated to the city pursuant to Section 65584.

(b) The credit that the county receives pursuant to this section shall not exceed 40 percent of the number of units that are affordable to lower income households and constructed and occupied during the same housing element cycle in unincorporated areas of the county. The county shall only receive the credit after the units have been constructed and occupied. Within 60 days of issuance of a certificate of occupancy for the units, the county shall inform the council of governments and the department in writing that a certificate of occupancy has been issued.

(c) Concurrent with the review by the council of governments prescribed by this section, the Department of Housing and Community Development shall evaluate the agreement to determine whether the city or cities are in substantial compliance with this section. The department shall report the results of its evaluation to the county and city or cities for inclusion in their record of compliance with this section.

(d) If at the end of the five-year period identified in subdivision (c) of Section 65583, any percentage of the regional share allocation has not been constructed as provided pursuant to subdivision (a), or, after consultation with the department, the council of governments determines that the requirements of paragraphs (5) and (7) of subdivision (a) have not been substantially complied with, the council of governments shall add the unbuilt units to Napa County's regional share allocation for the planning period of the next periodic update of the housing element.

(e) Napa County shall not meet a percentage of its share of the regional share pursuant to subdivision (a) on or after June 30, 2007, unless a later enacted statute, that is enacted before June 30, 2007, deletes or extends that date.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable to the County of Napa, as regards the availability of locations for affordable housing within the county, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

CHAPTER 359

An act to add Article 6 (commencing with Section 52100) to Chapter 1 of Division 18 of the Food and Agricultural Code, relating to field crop products.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Article 6 (commencing with Section 52100) is added to Chapter 1 of Division 18 of the Food and Agricultural Code, to read:

Article 6. Destruction

52100. (a) Any person who willfully and knowingly damages or destroys any field crop product, as specified in Sections 42510 and 52001, that is known by the person to be the subject of testing or a product development program being conducted by, or in conjunction or cooperation with the University of California, the California State University System, or any other federal, state, or local government agency, shall be liable for twice the value of the crop damaged or destroyed. For purposes of this subdivision, ''in conjunction or cooperation with'' means having a contract with the University of California, the California State University System, or any other federal, state, or local government agency involving testing or a product development program relating to that field crop product.

(b) Damages available under this section shall be limited to twice actual damages involving research, testing, and crop development costs directly related to the crop that has been damaged or destroyed.

(c) The rights and remedies available under this section are in addition to any other rights or remedies otherwise available in law or statute.

CHAPTER 360

An act to amend Section 128385 of the Health and Safety Code, relating to health.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 128385 of the Health and Safety Code is amended to read:

128385. (a) There is hereby created the Registered Nurse Education Program within the Health Professions Education Foundation. Persons participating in this program shall be persons who agree in writing prior to graduation to serve in an eligible county health facility, an eligible state-operated health facility, or a health manpower shortage area, as designated by the director of the office. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health manpower shortage areas may apply for scholarship or loan repayment. The Registered Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Registered Nurse Education Fund shall be used only for the purpose of promoting the education of registered nurses and related administrative costs. The Health Professions Education Foundation shall make recommendations to the director of the office concerning both of the following:

(1) A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility, or in a health manpower shortage area that would require a period of obligated professional service in the areas of California designated by the Health Manpower Policy Commission as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(2) Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(b) Applicants may be persons licensed as registered nurses or graduates of associate degree nursing programs prior to entering a program granting a baccalaureate of science degree in nursing. Priority shall be given to applicants who hold associate degrees in nursing.

(c) Not more than 5 percent of the funds available under the Registered Nurse Education Program shall be available for a pilot project designed to test whether it is possible to encourage articulation from associate degree nursing programs to baccalaureate of science degree nursing programs. Persons who otherwise meet the standards of subdivision (a) shall be eligible for educational loans when they are enrolled in associate degree nursing programs. If these persons complete

a baccalaureate of science degree nursing program in California within five years of obtaining an associate degree in nursing and meet the standards of this article, these loans shall be completely forgiven.

(d) As used in this section, ''eligible county health facility'' means a county health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(e) As used in this section, ''eligible state-operated health facility'' means a state-operated health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

CHAPTER 361

An act to add Section 230.4 to the Labor Code, relating to volunteer firefighters.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 230.4 is added to the Labor Code, to read:

230.4. (a) An employee who is a volunteer firefighter, and works for an employer employing 50 or more employees, shall be permitted to take temporary leaves of absence, not to exceed an aggregate of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training.

(b) An employee who works for an employer employing 50 or more employees who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because the employee has taken time off to engage in fire or law enforcement training as provided in subdivision (a), is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.

(c) An employee seeking reinstatement and reimbursement pursuant to this section may file a complaint with the Division of Labor Standards Enforcement in accordance with Section 98.7, and upon receipt of such a complaint, the Labor Commissioner shall proceed as provided in that

section.

CHAPTER 362

An act to amend Section 1626 of the Health and Safety Code, relating to blood products.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. It is the intent of the Legislature that California adopt a completely voluntary system of blood platelet collection and usage by January 1, 2003.

SEC. 2. Section 1626 of the Health and Safety Code is amended to read:

1626. (a) Except as provided in subdivisions (b) and (c), it shall be unlawful, in any transfusion of blood, to use any blood that was obtained from a paid donor.

(b) Subdivision (a) shall not be applicable to any transfusion of blood that was obtained from a paid donor if the physician and surgeon performing the transfusion has determined, taking into consideration the condition of the patient who is the recipient of the transfusion, that other blood of a type compatible with the blood type of the patient cannot reasonably be obtained for the transfusion.

(c) Subdivision (a) shall not apply to blood platelets secured from paid donors through the hemapheresis process if all of the following requirements are satisfied:

(1) The blood platelets are ordered by a doctor holding a valid California physician's and surgeon's certificate.

(2) The blood platelets are secured from a single donor and are sufficient to constitute a complete platelet transfusion.

(3) The donor's identification number is recorded on the platelet label and is kept in the records of the entity providing the blood platelets for a minimum of five years.

(4) The donor has been examined by a doctor holding a valid California physician's and surgeon's certificate, and a repeat donor is reexamined at least annually.

(5) The transfusion is performed in a general acute care hospital.

(6) The blood platelets are processed according to standards issued by the American Association of Blood Banks, pursuant to Section 1602.1.

(7) The donor and blood are tested in accordance with regulations issued by the State Department of Health Services.

(8) The entity providing the blood platelets is licensed by the State Department of Health Services.

(9) The information that the donor of the blood platelets was compensated is printed on the label in accordance with Section 1603.5.

(10) In all instances, a potential donor shall provide a blood sample, which shall be tested with the standard panel of blood tests required by the State Department of Health Services for all blood donations. The results of the testing shall be obtained, evaluated, and determined to be acceptable prior to allowing the potential donor to provide his or her first donation of platelets. In addition, all donors shall be required to schedule an appointment for platelet donation.

(11) Any entity that is not collecting blood platelets from paid donors on August 1, 2000, shall obtain written permission from the director prior to compensating any donor for blood platelets.

(d) Subdivision (c) shall become inoperative on January 1, 2003.

(e) (1) Commencing in January 1996, and every year thereafter through the 2002 calendar year, those blood banks acquiring blood platelets from paid donors shall report all of the following information to the State Department of Health Services:

(A) The specific actions undertaken to obtain blood platelets from volunteer donors.

(B) The percentage of compensated and volunteer donors from whom blood platelets were obtained during the period covered by the report.

(C) The number of repeat donors making platelet donations during the period covered by the report.

(2) The department shall transmit the information received pursuant to this subdivision to the Senate Health and Human Services Committee and the Assembly Health Committee for review by those committees consistent with subdivision (a). The department shall monitor and assess the supply and distribution of hemapheresis products, and shall recommend to the Legislature any action the department believes beneficial to the supply, safety, and quality of blood products used in this state.

(3) Paragraph (1) of this subdivision is not intended to require the disclosure and reporting of information that would put the blood banks at a competitive disadvantage in attracting volunteer donors.

CHAPTER 363

An act to amend Sections 13304, 13402, 13404, 13405, 13550, 13563, 16760, and 16870 of, and to repeal Sections 13551 and 16871 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

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

(a) It is and always has been the intent of the Legislature in enacting the California Estate Tax Law (Chapters 327 and 1535 of the Statutes of 1982), to implement the intent of Section 13302 of the Revenue and Taxation Code (adopted by Proposition 6, Initiative Statute, June 8, 1982) that California be entitled to collect the maximum allowable amount of the credit for state death taxes, allowable under the federal estate tax law, that is attributable to property located in California.

(b) Despite this requirement, an appellate court decision has held that, under California property law, certain transfers included in a decedent's gross estate under the federal estate tax law are not subject to tax under the California Estate Tax Law because the decedent under California law was not the owner.

(c) The Legislature expressly declares that this appellate court decision is contrary to the Legislature's intent, and the amendments made by this act are intended to clarify what the Legislature declares was and continues to be the law.

SEC. 2. Section 13304 of the Revenue and Taxation Code is amended to read:

13304. In a case where the gross estate of a decedent includes property having a situs in this state, and includes other property having a situs in another state, or other states, the portion of the maximum state death tax credit allowable against the federal estate tax on the total estate by the federal estate tax law that is attributable to the property having a situs in California shall be determined in the following manner:

(a) For the purpose of apportioning the maximum state death tax credit, the gross value of the property shall be that value finally determined for federal estate tax purposes.

(b) The maximum state death tax credit allowable shall be multiplied by the percentage which the gross value of property having a situs in California bears to the gross value of the entire estate subject to federal estate tax.

(c) The product determined pursuant to subdivision (b) shall be the portion of the maximum state death tax credit allowable that is attributable to property having a situs in California.

SEC. 3. Section 13402 of the Revenue and Taxation Code is amended to read:

13402. ''Estate'' or ''property'' means the real or personal property or interest therein included in the gross estate of a decedent or transferor, and includes all of the following:

(a) All intangible personal property included in the gross estate of a resident decedent within or without the state or subject to the jurisdiction thereof.

(b) All intangible personal property in California included in the gross estate of a nonresident decedent of the United States, including all stock of a corporation organized under the laws of California or which has its principal place of business or does the major part of its business in California or of a federal corporation or national bank which has its principal place of business or does the major part of its business in California, excluding, however, savings accounts in savings and loan associations operating under the authority of the Division of Savings and Loan or the Federal Home Loan Bank board and bank deposits, unless those deposits are held and used in connection with a business conducted or operated, in whole or in part, in California.

SEC. 4. Section 13404 of the Revenue and Taxation Code is amended to read:

13404. ''Transfer'' means the inclusion of any property or other interest included in the gross estate of a decedent.

SEC. 5. Section 13405 of the Revenue and Taxation Code is amended to read:

13405. ''Decedent'' or ''transferor'' means any person whose death gives rise to a transfer.

SEC. 6. Section 13550 of the Revenue and Taxation Code is amended to read:

13550. (a) The tax imposed by this part does not bear interest if it is paid prior to the date on which it otherwise becomes delinquent. However, if the tax is paid after that date, the tax bears interest at the rate for underpayment of estate tax provided in Section 6621(a)(2) of the Internal Revenue Code from the date it became delinquent and until it is paid. Interest under this section shall be compounded daily.

(b) The amendments made by Chapter 323 of the Statutes of 1998 shall apply to delinquent amounts unpaid on or after January 1, 1999, to December 31, 2000, inclusive.

SEC. 6.5. Section 13551 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 13563 of the Revenue and Taxation Code is amended to read:

13563. Interest shall be allowed and paid upon any overpayment of tax due under this part in the same manner as provided in Sections 6621(a)(1) and 6622 of the Internal Revenue Code.

SEC. 8. Section 16760 of the Revenue and Taxation Code is amended to read:

16760. If the tax is not paid before it becomes delinquent, it bears interest thereafter and until it is paid at the same rate per annum as provided in Section 6621(a)(2) of the Internal Revenue Code, compounded daily.

SEC. 9. Section 16870 of the Revenue and Taxation Code is amended to read:

16870. Interest shall be allowed and paid upon any overpayment of tax due under this part in the same manner as provided in Section 6621(a)(1) and 6622 of the Internal Revenue Code.

SEC. 10. Section 16871 of the Revenue and Taxation Code is repealed.

SEC. 11. The amendments made by Sections 6 to 10, inclusive, of this act become operative on January 1, 2001, and apply to interest accrual periods beginning on or after January 1, 2001.

SEC. 12. Interest shall not be assessed under Section 13550 of the Revenue and Taxation Code upon that portion of the death tax credit paid by a taxpayer to the Internal Revenue Service prior to the enactment of this act because of that taxpayer's reliance upon the holding in the appellate court decision described in subdivision (b) of Section 1 of this act, that becomes payable to the State of California. This section shall be operative until January 1, 2002.

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 provide that certain transfers included in a decedent's gross estate under the federal estate tax law are subject to tax under the California Estate Tax Law and thereby end the loss of revenue to the state at the earliest possible time and to revise applicable interest rates at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 364

An act to amend Section 16304 of, and to add Section 16304.3 to, the Government Code, relating to state funds.

[Approved by Governor September 7, 2000. Filed with
Secretary of State September 8, 2000.]

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

SECTION 1. Section 16304 of the Government Code is amended to read:

16304. An appropriation shall be available for encumbrance during the period specified therein, or, if not otherwise limited by law, for three years after the date upon which it first became available for encumbrance. An appropriation containing the term ''without regard to fiscal years'' shall be available for encumbrance from year to year until expended.

An appropriation shall be deemed to be encumbered at the time and to the extent that a valid obligation against the appropriation is created.

As used in this code and in every other statute heretofore or hereafter enacted, the term ''unexpended balance'' shall be construed to mean ''unencumbered balance.''

Appropriations for the following purposes are exempt from limitations as to period of availability in any appropriation, and shall remain available from year to year until expended:

(a) Payment of interest and redemption charges on any portion of the bonded debt of the state.

(b) Transfers of money from any fund for the benefit of elementary schools, high schools, community colleges, the University of California, or any interest and sinking fund in the State Treasury.

(c) Money transferred to revolving funds specifically created by law, including, but not limited to, the Architecture Revolving Fund and the Water Resources Revolving Fund.

(d) Appropriations available for the acquisition of real property to the extent that such appropriations have been encumbered by the filing of condemnation proceedings on behalf of the State of California prior to the expiration of the period of availability of the appropriation.

(e) Money transferred to and expendable from funds other than the fund in which originally deposited, pursuant to the provisions of law earmarking or appropriating for expenditure certain classes of revenue or other receipts.

(f) Continuing provisions of law appropriating for specific purposes certain classes of revenue or other receipts, upon their deposit in a particular fund in the State Treasury or upon their collection by an agency of this state.

SEC. 2. Section 16304.3 is added to the Government Code, to read:

16304.3. (a) Notwithstanding Section 16304, an appropriation for an approved cooperative work agreement shall be available for expenditure as provided in this section.

(b) An approved cooperative work agreement is a binding contract or agreement between multiple parties, including the state or other governmental entities, or private nonprofit organizations, for work that cannot be completed for valid and substantial reasons during the period of time for which the funding is available for liquidation, and that meets all of the following criteria:

(1) The cooperative work agreement has been approved by the Department of Finance.

(2) The work to be completed is consistent with the intent of the original appropriation.

(3) The cooperative work agreement is funded only from appropriations for local assistance.

(c) Only that portion of the appropriation already encumbered upon approval of the cooperative work agreement by the Department of Finance shall be available to complete the work specified in the agreement. Any unencumbered or disencumbered balance shall revert to the fund of origin consistent with standard state accounting practices.

(d) The unliquidated balance subject to the approved cooperative work agreement shall revert to the fund of origin no later than eight years from the date of the original appropriation.

(e) This section shall not apply to cooperative work agreements entered into prior to January 1, 2001.

CHAPTER 365

An act to amend Section 1171 of the Labor Code, and to amend Section 634.5 of the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

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

(a) That AmeriCorps is a unique and valuable program created by the United States federal government that seeks to provide young Americans opportunities to engage themselves in volunteer service in their communities, while earning credits toward their college or university education and being provided with living allowances

including benefits and workers' compensation coverage. Because AmeriCorps participants become involved in unpredictable service commitments (from individual to community emergencies), their hours of service are irregular at times.

(b) There are now approximately $32 million of federal funds coming into California supporting 60 different and distinct AmeriCorps programs with nearly 9,400 participants.

SEC. 2. (a) The Legislature hereby intends to recognize the unique and valuable character of the AmeriCorps program, and its 60 programs now operating in California, and to assure their ready operation by providing them a unique exemption from the California wage and hour law and an exemption from state unemployment insurance laws.

(b) In so doing, it is not the intention of the Legislature to create any precedent that would otherwise curtail the full operation of California's wage and hour law or its unemployment insurance laws.

SEC. 3. Section 1171 of the Labor Code is amended to read:

1171. The provisions of this chapter shall apply to and include men, women and minors employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, but shall not include any individual employed as an outside salesman or any individual participating in a national service program carried out using assistance provided under Section 12571 of Title 42 of the United States Code.

Any individual participating in a national service program pursuant to Section 12571 of Title 42 of the United States Code shall be informed by the nonprofit, educational institution or other entity using his or her service, prior to the commencement of service of the requirement, if any, to work hours in excess of eight hours per day, or 40 hours per week, or both, and shall have the opportunity to opt out of that national service program at that time. Individuals participating in a national service program pursuant to Section 12571 of Title 42 of the United States Code shall not be discriminated against or be denied continued participation in the program for refusing to work overtime for a legitimate reason.

SEC. 4. Section 634.5 of the Unemployment Insurance Code is amended to read:

634.5. Notwithstanding any other provision of this code or any other code or law, no provision of this code or any other code or law excluding service from ''employment'' shall apply to any public entity defined by Section 605 or to any nonprofit organization described by Section 608, except as provided by this section. With respect to any public entity defined by Section 605 or any nonprofit organization described by Section 608, ''employment'' does not include service excluded under Sections 629, 631, 635, and 639 to 648, inclusive, or service performed in any of the following:

(a) In the employ of (1) a church or convention or association of churches or (2) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(c) In the employ of any public entity defined by Section 605, if the service is performed by an individual in the exercise of his or her duties as any of the following:

(1) An elected official.

(2) A member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof.

(3) A member of a State National Guard or Air National Guard.

(4) An employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(5) In a position which, under or pursuant to state law, is designated as either of the following:

(A) A major nontenured policymaking or advisory position.

(B) A policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week.

(6) As an election official or election worker if the amount of remuneration reasonably expected to be received by the individual during the calendar year for services as an election official or election worker is less than two hundred dollars ($200), provided that this paragraph shall not take effect unless and until the service is excluded from service to which paragraph (1) of subdivision (a) of Section 3309 of the federal Unemployment Tax Act (26 U.S.C. Sec. 3301 et seq.) applies by reason of exemption under subdivision (b) of Section 3309 of that act.

(d) Except as provided by Section 605.5, by an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of either:

(1) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury; or

(2) Providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(e) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving work relief or work training.

(f) By a ward or an inmate of a custodial or penal institution pursuant to Article 1 (commencing with Section 2700), Article 4 (commencing with Section 2760), and Article 5 (commencing with Section 2780) of Chapter 5 of, and Article 1 (commencing with Section 2800) of Chapter 6 of, Title 1 of Part 3 of the Penal Code, Section 4649 and Chapter 1 (commencing with Section 4951) of Part 4 of Division 4 of the Public Resources Code, and Sections 883, 884, and 1768 of the Welfare and Institutions Code.

(g) By an individual under the age of 18 years in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) By an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on retention of the excess of the price over the amount at which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for the service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(i) As a substitute employee whose employment does not increase the size of the employer's normal work force, whose employment is required by law, and whose employment as a substitute employee does not occur on more than 60 days during the base period, except that this subdivision shall not take effect unless and until the United States Secretary of Labor, or his or her designee, finds that this subdivision is in conformity with federal requirements.

(j) As a participant in a national service program carried out using assistance provided under Section 12571 of Title 42 of the United States Code.

This section shall become operative on July 1, 1978.

CHAPTER 366

An act to add and repeal Section 531 of the Military and Veterans Code, and to add and repeal Sections 731.3 and 796 of the Welfare and Institutions Code, relating to military academies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 2000. Filed with Secretary of State September 8, 2000.]

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

SECTION 1. Section 531 is added to the Military and Veterans Code, to read:

531. (a) The Adjutant General shall develop, establish, and operate the Turning Point Academy for the purpose of providing a comprehensive and meaningful military academy experience for minors residing in California who are 15 years of age or older and who have committed a firearms-related offense at school or a school activity off school grounds, as described in paragraph (1) of subdivision (c) of Section 48915 of the Education Code.

The Turning Point Academy shall consist of an intensive program of treatment, physical training, education, drug screening, and counseling services for eligible wards of the juvenile court. The mission of the academy shall be to enhance public safety, and to prepare youth for productive and successful lives by fostering self esteem, self discipline, and personal accountability as individuals; developing constructive social and community affiliations; and providing academic and vocational education training. The Military Department shall contract with an accredited educational institution for provision of the educational component of the program; this shall include an affiliation with a local school district, county office of education, or community college that has an agreement with a high school.

(b) A minor selected for the academy shall meet all of the criteria described in Section 731.3 of the Welfare and Institutions Code. The academy shall be comprised of wards who are accepted into the academy and successfully complete the academy orientation program. Wards who are accepted into the academy shall be known as ''cadets.''

(c) At no time and in no instance shall physical or chemical force, or physical or mental intimidation or coercion, be used for punishment, behavior modification, or any other purpose at the academy unless specifically in response to an emergency situation in which a cadet or staff person faces imminent physical harm, and in accordance with force policies adopted by the academy.

(d) (1) Pursuant to this section, the Military Department shall adopt policies and procedures concerning all matters relating to cadet and staff safety; staff training; cadet discipline, motivation, and mentoring; academic and vocational education assessment and programming; behavior counseling; and cadet graduation planning.

(2) The Military Department shall adopt the policies and procedures required under paragraph (1) pursuant to the requirements of this article and the recommendations of an advisory committee comprised of the following representatives or their designees who shall be appointed by the Governor unless otherwise specified:

(A) The Adjutant General of the Military Department, who shall chair the advisory committee.

(B) The Director of the Youth Authority.

(C) A representative selected by the Senate Committee on Rules.

(D) A representative selected by the Speaker of the Assembly.

(E) A chief probation officer of a county that has adopted a resolution pursuant to subdivision (f) of Section 731.3 of the Welfare and Institutions Code.

(F) The Superintendent of the San Luis Obispo County Office of Education.

(G) A juvenile court judge.

(H) A sheriff of a county that has adopted a resolution pursuant to subdivision (h) of Section 731.3 of the Welfare and Institutions Code.

(I) The Sheriff of San Luis Obispo County.

(J) A youth advocate experienced in juvenile detention issues.

(K) An expert in the field of adolescent development or mental health.

(e) For custody, physical education and fitness, and leadership training positions, the academy shall be staffed by persons meeting the hiring and training requirements of a Youth Correctional Counselor for the Department of the Youth Authority as of June 30, 2000, or persons who have successfully completed the Juvenile Corrections Officer Core Course and, where required, completed additional annual training, as regulated by the Board of Corrections.

(f) Academic and vocational education positions at the academy shall be staffed by persons within any of the following categories:

(1) Any person holding a valid teacher credential issued by the Commission on Teacher Credentialing pursuant to Article 4 (commencing with Section 44250) of Part 25 of the Education Code.

(2) Any person holding a valid emergency teaching or specialist permit issued pursuant to Section 44300 of the Education Code.

(3) Any person providing instructional services pursuant to a waiver of requirements governing the preparation or licensing of educators, pursuant to subdivision (m) of Section 44225 of the Education Code.

(g) Individual or group counseling shall be provided by a psychiatrist, psychologist, marriage and family counselor, or clinical social worker currently licensed as such by the state.

(h) The academy shall be subject to Section 209 of, and Article 24 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code. The Board of Corrections shall ensure that gender specific issues, including, but not limited to, issues of ward safety, are adequately addressed.

(i) Following admission of a cadet into the academy, individualized comprehensive cadet programming plans shall be developed and

implemented. These plans shall be individualized, and shall include all of the following programming elements:

(1) Academic or vocational education or both.

(2) Individual and group behavior counseling.

(3) Physical education and fitness.

(4) Leadership training.

(5) Program completion goals and planning.

(j) The department shall prepare and submit to the Legislature on or before July 1, 2002, a report that includes all of the following:

(1) Information regarding management of daily operations.

(2) A statistical description of the youth participating in the program.

(3) The number of participants successfully completing the program.

(4) The arrest, reincarceration, and probation violation rates of wards or former wards who successfully completed the academy.

(5) Cost of the program per participant.

(6) A description of the programs and services provided.

(7) A description of any allegations of staff misconduct.

(8) Any additional data or information that the Military Department deems relevant to an objective assessment and evaluation of the operation of the program.

(k) Up to 5 percent of the amount appropriated to the Military Department pursuant to the act adding this section shall be used for an independent researcher recommended by the Legislative Analyst's office to conduct an evaluation of the effectiveness of the academy based on an experimental design.

(*l*) This section shall become inoperative on July 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 2. Section 731.3 is added to the Welfare and Institutions Code, to read:

731.3. (a) Any minor who is 15 years of age or older and who is found to have committed a firearms-related offense described in paragraph (1) of subdivision (c) of Section 48915 of the Education Code at school or a school activity off school grounds may be committed to placement in the Turning Point Academy established by Section 531 of the Military and Veterans Code for up to six months, except as otherwise provided in this section. After completion of the academy, the minor shall complete six months of intensive probation supervision in the minor's county of origin, including participation in an aftercare program as provided in subdivision (e).

(b) In order to be eligible to participate in the academy, a minor shall meet all of the following criteria:

(1) The minor is 15 years of age or older.

(2) The minor has not been previously found to be a ward of the court pursuant to Section 602.

(3) The minor has not previously participated in the academy program.

(4) The minor has not previously been committed to the Department of the Youth Authority.

(5) The minor is not mentally ill and does not have sexual problems.

(6) The minor would benefit from the educational and treatment program offered by the academy.

(7) The minor is unlikely to suffer harm in the program due to immaturity, fragility, physical or mental impairment, serious emotional disturbance, or developmental disability. No minor shall be placed in the academy who is under the jurisdiction of the court solely because of abuse or neglect.

(c) (1) Prior to referral to the academy, the minor shall be assessed by the county probation officer. The county probation officer shall perform a social study and assess the minor's mental health status and make a determination whether the criteria enumerated in subdivision (b) apply. At the time the minor is brought before a judicial officer, the judicial officer shall assess the minor's mental health status, and shall order the minor to continue to be detained and a mental health evaluation conducted in accordance with Article 3 (commencing with Section 6550) of Chapter 2 of Part 2 of Division 6, if the judicial officer concludes that the minor poses a danger to the safety of himself or herself or to the public. The assessment shall determine whether the minor is physically and psychologically suitable to participate in the program, including whether the minor has special education needs that could not be provided by the academy program. The assessment shall also include a determination as to the availability of space in the residential academy program.

(2) If the minor is found to be unsuitable for placement in the program, or if space is not available, the minor shall be returned to the juvenile court for further disposition. If the minor who is found ineligible to participate pursuant to a deferred entry of judgment program pursuant to Section 796, the minor shall be permitted to withdraw an admission of guilt entered pursuant to a deferred entry of judgment program established pursuant to Article 20.5 (commencing with Section 790), and the case shall proceed pursuant to Article 17 (commencing with Section 675).

(d) Upon referral to the program, during the orientation procedure, the Military Department shall review and confirm that the minor meets the basic eligibility requirements for participation in the program. If the department concludes that the minor is unsuitable for placement in the

program, the minor shall be returned to the juvenile court for commitment to another appropriate disposition.

(e) The status of every minor placed in the academy shall be reviewed periodically by the committing court as determined by the court, but no less frequently than once monthly, as calculated from the date of the original dispositional hearing, until the minor is returned to the minor's county of origin. The court shall consider the health and safety of the minor, and any other condition or circumstance relevant to the minor's treatment at the academy.

(f) If, upon inspection, the probation officer of the county in which the minor is adjudged a ward of the court determines that the academy is an unsuitable placement for the minor, the probation officer may temporarily remove the minor from the facility or program. The probation officer shall promptly inform the court of the minor's removal, and shall return the minor to the court for a hearing to review the suitability of continued confinement at the academy.

(g) The aftercare program of the academy shall be comprised of individually designed, comprehensive, and intensive programs of probation supervision that shall include the following phases and, depending upon the needs and circumstances of the minor, planning, supervision, and treatment components appropriate for each phase that shall assure public safety and the minor's competency development as a law-abiding citizen:

(1) A transition planning phase that commences no sooner than four weeks prior to a ward's release from the academy that consists of assessing the ward and the ward's aftercare needs and requirements; a home-based interview with the ward's family to determine and incorporate the family's needs and circumstances into the ward's aftercare plan; and the development of a case plan for the ward.

(2) An intensive community-based supervision phase beginning immediately upon the ward's release from the academy, consisting of one or a combination of the following models based upon a ward's individual and family needs and circumstances:

(A) The community day school model, where the ward attends a structured day treatment program for at least eight hours per school day, while being intensively supervised by a probation officer.

(B) The home supervision model, where the ward attends a regular or court school program while being intensively supervised by a probation officer and under the supervision of a home confinement officer who makes daily home visits or telephone calls.

(C) The home supervision model, where the ward attends a regular or court school program while being intensively supervised by a probation officer, under the supervision of a home confinement officer, and also under electronic surveillance.

(3) A step-down phase, in which a probation officer reassesses the case, reviews the case plan, and begins the supervision termination process.

(h) This section shall apply only in a county in which the county board of supervisors has adopted a resolution making this section and Section 796 applicable to the county. The resolution shall state the intention of the county to comply with all of the requirements of those provisions, and to provide transportation for the minors to and from the residential academy.

(i) This section shall become inoperative on July 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Section 796 is added to the Welfare and Institutions Code, to read:

796. (a) This section shall apply in any county in which the county board of supervisors has adopted a resolution making this section and Section 731.3 applicable.

(b) Notwithstanding the eligibility criteria contained in subdivision (a) of Section 790 but subject to subdivision (b) of Section 790, whenever a case is before the juvenile court for a determination of whether the minor is a person described in Section 602 because of the commission of a firearms-related offense at school or a school activity off school grounds described in paragraph (1) of subdivision (c) of Section 48915 of the Education Code, deferred entry of judgment procedures described in this chapter shall apply, if all of the following circumstances apply:

(1) The minor has not previously been committed to the custody of the Department of the Youth Authority.

(2) The minor's record does not indicate that probation has ever been revoked without being completed.

(3) The minor is at least 15 years of age at the time of the hearing.

(4) The minor is eligible for probation pursuant to Section 1203.06 of the Penal Code.

(5) The current offense is not one described in subdivision (b) of Section 707.

(6) The minor has not previously committed an offense described in subdivision (b) of Section 707.

(7) The minor is not otherwise ineligible pursuant to Section 731.3.

(c) The prosecuting attorney shall review his or her file to determine whether or not paragraphs (1) to (7), inclusive, of subdivision (b) apply.

(d) Upon completion of the requirements for deferred entry of judgment contained in this chapter, except as modified by this section, a minor described in subdivision (a) shall be ordered to participate in the Turning Point Academy program, pursuant to Section 731.3. As a

condition of participation, the juvenile court judge shall order the minor to obey all orders and rules of the academy.

(e) Notwithstanding subdivision (a) of Section 793, the juvenile court judge may also enter judgment and schedule a dispositional hearing if the judge determines that the minor is not complying with the rules and orders of the Turning Point Academy.

(f) (1) If the minor has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period the charge or charges in the wardship petition shall be dismissed and the arrest upon which the judgment was deferred shall be deemed never to have occurred and any records in the possession of the juvenile court shall be sealed, except that the prosecuting attorney and the probation department of any county shall have access to these records after they are sealed for the limited purpose of determining whether a minor is eligible for deferred entry of judgment pursuant to Section 790. Nothing in this section is intended to abrogate the minor's rights pursuant to Section 781 regarding the sealing of records.

(2) If the minor successfully completes the Turning Point Academy program, the minor shall be permitted to reenroll in the school from which he or she was expelled pursuant to Section 48915 of the Education Code, if applicable.

(g) In all other respects, the procedures, requirements, and consequences relating to deferred entry of judgment contained in Sections 790 to 795, inclusive, shall apply.

(h) This section shall become inoperative on July 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 4. The sum of nine million two hundred ten thousand dollars ($9,210,000) is hereby appropriated from the General Fund to the Military Department for the purpose of implementing this act. Funds received pursuant to this act shall be expended in accordance with the provisions of this act no later than June 30, 2002, and the unencumbered balance on that date shall revert to the General 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 make the programs authorized by this act available at the earliest possible time, it is necessary that this act take effect immediately.
